

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 7, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 7, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Don Anderson, Vice-Chair; Harold Warner Jr.; John W. McKay, Jr.; Bill Johnson (in late); Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Sherman; Bud Hentzen left early); Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Darrell Downing, Chair was not present. Don Anderson, Vice Chairman in the Chair. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; and Maryann Crockett, Recording Secretary.

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1. Approval of the November 2, 2006 MAPC minutes.

MOTION: To approve the November 2, 2006 MAPC minutes.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

2. Consideration of Central & Hillside Redevelopment District, College Hill Urban Village Project Plan.

SCHLEGEL introduced Allen Bell, Economic Development Director, and commented that the action being requested from the MAPC was to adopt a resolution that the proposed project was consistent with the Wichita-Sedgwick County Comprehensive Plan.

BELL began the presentation by correcting a clerical error in the document provided with the agenda concerning the name of the project, which he said should be the "Douglas and Hillside Redevelopment District." He said confirming that the project was in compliance with the Wichita-Sedgwick County Comprehensive Plan was one step in the process to secure tax increment financing. He gave a brief background on the project stating that in August 2006 the City Council had adopted an ordinance creating the redevelopment district with boundaries at Douglas, First Street, Hillside and Rutan Avenue.

JOHNSON – present.

BELL commented that Mike Loveland from Loveland Properties, L.L.C. and Bill Livingston from Gossen and Livingston – Architects were present to answer any questions regarding the project. He said the project was a 6-acre site at Douglas and Rutan which included a seventeen-story condo tower consisting of approximately 84 residential units and an underground parking garage; northeast and west brownstone complexes consisting of approximately 57 residential units; a south retail project consisting of approximately 14,000 square feet of commercial retail space in three different locations in addition to a loft residential complex and other public improvements including a pocket park and two public parking lots. He said project construction was expected to begin in late spring or early summer of next year and be completed sometime in 2009.

He referred to a PowerPoint presentation that depicted several renderings of the College Hill Urban Village site plan including a bird's eye view of the area, a view of the retail/lofts at Douglas and Rutan, a view from the roundabout, a view of Rutan Avenue, and a view of Victor Place. He said tax increment financing funds in the amount of approximately \$4,450,000 would be used for a variety of project costs including: land acquisition, demolition/site work, landscaping, parks, streets and utilities, roundabouts, lighting, public art and public parking. He mentioned that State Law limited fund usage.

He briefly reviewed the TIF Analysis Summary and commented on the feasibility of using the property tax increment to finance the City's contribution to the project. He said they had tested several scenarios on the project

such as selling the condos for less than expected, implementing the project at a slower pace than originally projected and others.

The TIF included 2006 Assessed Value of \$672,061; Projected 2010 Assessed Value of \$7,576,876; Captured Assessed Value of \$6,904,815; 2006 Tax Levy \$116.064 mills; Levy available for TIF 04.564 mills; Projected property tax increment of \$652,947; projected TIF expenditures of \$4,950,000; Average annual debt service of \$535,937, and Surplus annual TIF revenue of \$117,010. He concluded by requesting that the MAPC adopt a resolution finding that the College Hill Urban Village Project was consistent with the Wichita-Sedgwick County Comprehensive Plan.

ANDERSON asked if the City of Wichita had a policy on where tax increment financing can be used?

BELL commented that the City followed State Law and that there was no separate City policy. He said several criteria were that the property needed to be located in a blighted area (and that there was a laundry list of items that constituted blight); the property could be located in a conservation area, meaning that at least 51% of the structures in the area were 35 years old or older; or the area needed to be designated as an enterprise zone. He said the City evaluated each proposal on a case-by-case basis.

ALDRICH verified that Victor Place and Rutan Avenue would remain public thoroughfares and also asked about park maintenance.

BELL said that Victor Place and Rutan Avenue would remain public thoroughfares and that the City would maintain the park area, which he stated should not have a large impact on the park budget.

DUNLAP said he thought it was an outstanding plan and asked, for the record, if eminent domain would be used for any property acquisition?

BELL said eminent domain would not be used to acquire property and clarified that the City did not acquire property that would be turned over to private developers through eminent domain.

BISHOP asked about the descriptions of property tax and sales tax increment financing on page three of the document and the statement "...the City does not intend to collect incremental sales tax revenues as sales tax increment." She asked why that paragraph was included?

BELL responded that the language was included to give assurance to the public that no sales tax revenue would be redirected to the project.

MOTION: That the College Hill Urban Village Project redevelopment plan was consistent with the Wichita-Sedgwick County Comprehensive Plan.

HENTZEN moved, **BISHOP** seconded the motion, and it carried (13-0).

❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee recommendations from the meeting of November 30, 2006.

3-1. **SUB 2006-82: One-Step Final Plat -- PEARSON COMMERCIAL ADDITION**, located south of 29th Street North and on the east side of Maize Road.

NOTE: The site has been approved for a zone change (ZON 2006-20) from SF-5, Single-Family Residential to LC, Limited Commercial and GC, General Commercial. The Pearson Commercial Community Unit Plan (CUP 2006-16, DP-297) was also approved for this site.

STAFF COMMENTS:

A. The applicant needs to extend sewer to lots being platted. In lieu of main fees need to be added to the petition. Easements also need to be shown. The existing house is connected to sewer. That connection needs to be sealed

off if the house is removed. Water is available on Maize Rd but in lieu of assessment fees are applicable for connections.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. *City Public Works has approved the Drainage Study subject to: a) the applicant shall obtain the required Corps of Engineer 404 Permit for Wetlands Mitigation; b) the project shall be constructed in accordance with the conditions assumed in the PEC drainage plan; and c) all development shall be in accordance with the documents ultimately approved by the City Council for this project.*

In addition, City Engineering requests that an off-site drainage agreement be provided in regards to the 50 acres adjoining the plat to the east. The 50-ft drainage easement along the north property line will be addressed in a restrictive covenant. The drainage plan for Pearson Commercial Addition should be revised to reflect the overall Cadillac Lake watershed study. A minimum pad elevation is needed on the plat.

- D. In accordance with the CUP, the applicant shall guarantee installation of the fourth leg of the traffic signal (and associated signal upgrades) at the intersection of Central Park and Maize Road.
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes three openings along Maize Road. *The north and south access openings need to be denoted as rights-in/out.*
- F. The platlor's text shall include reference to "Lots, Reserves and Blocks" in the owner's certificate.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body. *The reserves will not be used for drainage purposes.*
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 5. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- K. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- L. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To defer Item 3-1 until later in the meeting when the Director of Public Works or his designated representative was in the audience.

SCHLEGEL commented that a representative from Public Works was present.

MITCHELL moved, **DUNLAP** seconded the motion, and it carried (13-0).

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- 3-2. SUB 2006-93: Final Portion of Overall Preliminary Plat -- MONARCH LANDING ADDITION,** located on the northwest corner of 21st Street North and 159th Street East.

NOTE: This site is located in the County within three miles of Wichita's boundary. Since the site does not abut the City of Wichita, the applicant has requested island annexation.

This final plat consists of the southwest portion of the overall preliminary plat approved for the site and represents the first phase of development. The street layout and lot configuration is consistent with the preliminary plat.

STAFF COMMENTS:

- A. Island annexation of the property will be needed prior to this plat being scheduled for City Council review. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of City water and sanitary sewer (main and lateral) to serve the lots being platted. Lot 39, Block 1 needs to be included in the benefit districts for the water main extensions or in lieu of assessments for water connections to the existing water mains on the arterial streets will be needed.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan subject to the following conditions: 20' drainage easements are needed for future stormwater sewers between lots 15 and 16, Block 2, Lots 4 and 5, Block 2; Lots 6 and Reserve B, Block 1; Lots 20 and 21, Block 1; and Lots 2 and 3, Block 1. Minimum Pad elevations will need to be revised on the plat. The dry detention basin B2 as denoted on the drainage plan (portion of Lot 39, Block 1, the school site) shall be contained within a Reserve. Offsite drainage easements shall be acquired. County Engineering has reviewed the drainage plan and has no objection to its approval by the City. County Engineering requests that the 20-ft utility easement along the west line of Lots 34-38, Block 1 be relabeled as a drainage and utility easement.**
- The applicant will meet with City Engineering to discuss the revision of the platters text to delete language that allows the Homeowner's Association to deed portions of the Reserves dedicated for drainage purposes and other uses since the purpose of the Reserve is to make one party responsible for the maintenance of the detention facility or drainage way.**
- E. Block 3 needs labeled
- F. The 16' utility easement in Reserve B needs changed from Reserve E.
- G. **County Surveying** advises that several dimensions in the leader boxes are not legible
- H. A dimension is needed on the North line of Lot 1, Block 5.
- I. Dimensions of 44.80' and 269.15' need combined on Reserve E
- J. The easements running north-south through the center of Block 1 need located.
- K. The owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair or maintenance.
- L. Minimum pad note needs corrected
- M. **County Engineering** needs to comment on the need for any improvements to perimeter streets. **Traffic Engineering requests petitions for left-turn lanes to the major openings and right-turn decel lanes.**
- N. **County Engineering** needs to comment on the access controls. The plat denotes one street opening along 21st Street. Two access openings are proposed for the school site (Lot 39, Block 1). **County/Traffic Engineering has approved access controls in accordance with the school site plan.**
- O. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- P. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- Q. "Lots, Blocks, Reserves and Streets" shall be referenced in the plat's text.
- R. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- S. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- T. Since Reserve B includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- U. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- V. **GIS** needs to comment on the plat's street names. **Revised street names are needed.**
- W. The plat indicates that the applicant is in the process of having a blanket pipeline easement confined. A recorded copy of the confinement of the easement shall be submitted.
- X. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Y. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Z. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- AA. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- BB. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- CC. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- DD. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- EE. Perimeter closure computations shall be submitted with the final plat tracing.
- FF. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- GG. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- HH. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (13-0).

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- 3-3. **SUB 2006-94: Final Portion of Overall Preliminary Plat -- KRUG SOUTH ADDITION**, located on the southwest corner of 21st Street North and 143rd Street East.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

This final plat is a portion of the overall preliminary plat approved for the site and represents the first phase of development. The commercial portion of the preliminary plat will be submitted as a final plat at a later date. The street layout and lot configuration is consistent with the preliminary plat.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of City water and sanitary sewer (main and lateral) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan subject to the following conditions: All floodway shall be located within a Reserve. The applicant will meet with City Engineering to discuss the revision of the platters text to delete language that allows the Homeowner's Association to deed portions of the Reserves A, B, C, D, E, and M dedicated for drainage purposes and other uses since the purpose of the Reserve is to make one party responsible for the maintenance of the detention facility or drainage way. Additional detention is needed for this development. All drainage easements denoted on the drainage plan shall be included within the plat. County Engineering has reviewed the drainage plan and has no objection to its approval by the City.**
- E. **County/Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **Traffic Engineering requests left-turn lanes to the major openings.**
- F. **Traffic Engineering** has approved the 58-foot width of Castle Rock/Reed's Cove if restricted to No Parking on both sides of the street. A restrictive covenant shall be provided specifying this requirement.
- G. **Traffic/County Engineering** needs to comment on the access controls. The plat proposes one street opening to 143rd East and one street opening to 21st St. North. **The access controls are approved.**
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. An interior dimension is needed on the north end of the west line of Reserve D.
- J. The 58' right-of-way dimension (near Reserve F) needs moved.
- K. Dimensions need added to Reserve E (near Lot 29, Block 1).
- L. The owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair or maintenance
- M. **County Public Works** recommends City of Wichita be required to annex 21st St. and 143rd St. adjacent to plat.

- N. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- O. A public access easement shall be permitted within Reserve B contingent upon rail-banking of the adjacent railroad corridor.

The Subdivision Committee did not approve this item.

- P. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- Q. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- R. Since Reserve A includes a community pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- S. **City Fire Department** needs to comment on the street length of Steeplechase Cir (920 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. **The street length of Steeplechase is approved contingent upon two hydrants being provided for the street.**
- T. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- U. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 53-55, Block 2, and for Lots 13-18, Block 2. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- V. **GIS** needs to comment on the plat's street names. **Revised street names are needed.**
- W. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- X. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Y. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Z. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- AA. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- BB. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army

Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- CC. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- DD. Perimeter closure computations shall be submitted with the final plat tracing.
- EE. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- FF. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. *Westar Energy has requested additional easements.*
- GG. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

BISHOP commented that she would like to make a motion that a public access easement shall be permitted within Reserve B contingent upon rail-banking the adjacent rail corridor, which she understands has been rail-banked. She added that the staff report indicated that the Subdivision Committee did not approve this item; however, she would like the MAPC to allow pedestrian access to the future proposed trail.

STRAHL indicated that Reserve B was along the south property line and said there was a possible north/south connection to a rail-banked area contingent upon construction of the recreational corridor. He said the developer felt access from 143rd Street would be sufficient and the Subdivision Committee concurred.

BISHOP asked if some of that reserve was going to be used for drainage or would it remain open?

STRAHL indicated he would let the applicant respond to specific questions concerning proposed use of the area.

MITCHELL indicated that a major power line goes through the reserve, so they would have to receive a public access easement from the utility also.

GREG ALLISON, MKEC commented that access to the trail had been discussed but they felt it was inappropriate at this time. He said the issue has come up several times on different plats. He said pedestrians and the public can access the trail system through sidewalk system and 143rd Street. He said other issues included concern about security in and out of the development and how to maintain a reserve that a private homeowners association owns when you have public access to it. He said they are opposed to the public easement.

BISHOP commented that she was aware that many expensive developments along pathways in other communities find that their properties hold their value better.

ALLISON said he couldn't evaluate that per se, but added that the neighborhood would be able to access the trail through the extensive sidewalk system through the development. He said they would still be able to benefit.

MARNELL asked if the residents would have access through the reserve?

ALLISON said he wasn't sure if that was true and added that he thought they might need to get approval from the City.

MARNELL asked if the reserve belonged to the homeowners association?

ALLISON said that was correct.

MARNELL also asked if public access were allowed, where was the public parking lot?

CECILE CARENBERGER, 7211 Bainbridge said a rail corridor was very important for the City. She said in Kansas City people whose houses back up to the trail system have gates. She said it was important to have that kind of access. She said trails need to be planned ahead of time instead of trying to get homeowner association approval after the fact. She said public parking was not needed for trail access. She concluded by saying that if Wichita was going to be a world-class city, greenways needed to be included.

MOTION: To approve the plat with a public access easement across Reserve B next to the proposed rail-banked trail, contingent upon development of the trail and securing an easement from the appropriate utility.

BISHOP moved, **WARNER** seconded the motion, and it failed (4-9). **ALDRICH, ANDERSON, DUNLAP, HENTZEN, HILLMAN, JOHNSON, MARNELL, MCKAY, MITCHELL** – Nay.

SUBSTITUTE MOTION: To approve subject to staff recommendations.

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (12-1). **BISHOP** – Nay.

SUB 2006-82: One-Step Final Plat -- PEARSON COMMERCIAL ADDITION

GISICK, ALDRICH, JOHNSON, and MITCHELL commented that they had ex parte contact concerning this item. It was the general consensus that all of the commissioners had been contacted regarding the item.

SCHLEGEL clarified for the record if the people who had been contacted prior to this meeting concerning this item had not expressed an opinion one way or the other on the item? “No” was the unanimous response.

Neil Strahl, Planning Staff presented the staff report.

He commented that the Subdivision Committee had deferred the plat until the overall drainage study was completed. He referred to item “C” of the staff report, which stated that City Public Works has approved the Drainage Study subject to: a) the applicant obtaining the required Corps of Engineer 404 Permit for Wetlands Mitigation; b) the project be constructed in accordance with the conditions assumed in the PEC drainage plan and c) all development shall be in accordance with the documents ultimately approved by the City Council for this project. In addition, City Engineering requests that an off-site drainage agreement be provided in regards to the 50 acres adjoining the plat to the east. The 50-ft drainage easement along the north property line will be addressed in a restrictive covenant. The drainage plan for Pearson Commercial Addition should be revised to reflect the overall Cadillac Lake watershed study and that a minimum pad elevation is needed on the plat. He said they have received objections from Jeff Bannon, the landowner at the subdivision on the south side of 29th Street. Mr. Bannon feels the drainage project will have an adverse impact on his property.

TIM AUSTIN, Poe & Associates, agent for the applicant referred to an aerial photo of the Cadillac Basin, which consisted of approximately 2,600 acres. He said it drains through several sub-basins as it filters down to the south end of the basin, which was actually the north end of the Chadsworth residential subdivision. He said from there it exits into a detention pond which was part of Chadsworth, crosses 21st Street into the Armour Street ditch, down to Rolling Hills Golf Course and into the Cowskin Creek. He said Mr. Pearson was developing part of his property as a commercial property. He said at that time the Corps of Engineers decided that the wetlands in the Cadillac Lake area were “non-jurisdictional” wetlands. He said because the area is in a floodplain, they had discussions with the City of Wichita about doing some detention ponds to increase storage capacity. He said he understood that residents from the Chadsworth subdivision contacted Storm Water Management, expressing concerns about the increased frequency of the flood flows going through Chadsworth, the detention pond and elevations. He said because of that the City commissioned Baughman Company to do a drainage study of the Cadillac Lake Basin. He said Baughman concluded that a flooding problem existed for Chadsworth because of upstream development, one half of which is in the City of Maize that wasn’t being controlled, and that the City needed to implement policies on how they wanted to handle development. He said Storm Water Management implemented a policy that detention capacity be increased by 10% for all plats in the Cadillac Lake area. He said they have been working for approximately 2 1/2 years with the Corps of Engineers. He said after the drainage study was completed the City of Wichita contacted the Corp to seek assistance on the flooding problem. In the meantime, he said there was a staff change at the Corp

office in El Dorado and the person who said the wetlands were “non-jurisdictional” left. He said the Corp then changed their ruling and decreed that the wetlands were jurisdictional. He said they are currently seeking a clarification on whether there are wetlands in the basin and whether they are jurisdictional. He commented that the Supreme Court Ruling in June never resolved anything. He added that the Corp rebutted Baughman’s study. He said the developer, Bruce Pearson, in conjunction with Slawson (the New Market group) engaged PEC to do a second drainage study to see if the first drainage study was accurate and correct. He said the PEC study has recently been completed, and that the study found that there is in fact a drainage problem for Chadsworth, and that under the existing conditions, from a drainage control and flooding standpoint, doing nothing was not an option. He said a solution presented to the city to solve the drainage problem in Chadsworth was that Mr. Pearson and New Market Square have jointly been working with the City to create a drainage improvement district jointly funded with capital improvement and private funds to create detention on the back 54 acres of Mr. Pearson's 80 acre tract. He said they are getting ready to submit their application for the 404-permit to create detention ponds on the Pearson and Slawson tracts to alleviate the flooding in Chadsworth. He said from an engineering and financial standpoint this was the best solution. He said he believed the petition and developer’s agreement were finalized and would be forwarded to the City Council and that application would be submitted, now that the drainage study was complete. He concluded by stating that Poe & Associates were in agreement with staff’s recommendation on the plat.

ALDRICH asked if he thought the Corps would sign off on the plan?

AUSTIN said one of the conditions of building was to fill where the plat was. He said that the Corps doesn’t specifically sign off on the plat, but in order to fill the property for development, it will be part of the 404-permit process.

MCKAY asked for clarification on the joint venture between the City of Wichita and Mr. Pearson. He said he understood that Pearson was donating the ground, but added that it needs a ton of fill.

AUSTIN said the property needed about four feet of fill on the average.

MCKAY whose responsibility it was to pay for that, the City or the developer?

AUSTIN said the contemplated agreement was that the developer would excavate on the backside and that some of the excavated material will be used to fill the front side. The City will not sign off on the compaction or guarantee the condition of the fill; the developers will still have to do that. He said any excess fill would be hauled off as part of the petition project. He said 52% was City funding and 48% was private funding, which all goes into one bucket. He said payment for that work came out of that bucket.

MITCHELL asked for clarification on the recommendation to the subdivision committee that came from Public Works regarding the offsite drainage agreement. He said at one time, they had requested that the land to the east be included in the plat. He asked if there was a significant difference between it being shown on the plat as opposed to being included in a development agreement, which the MAPC has not seen?

SCOTT LINDEBAK, Public Works, City Engineer’s Office, he said typically they would want to have the back part of the property as part of a reserve, because the back portion was going to be part of the improvements to fill the front 30 acres. He said he received information that Law had reviewed the agreement and felt that it was consistent and didn't require that the area be covered within a reserve and requirements such as maintenance be specified on the face of the plat, that the agreement would cover that. He said in terms of the drainage agreement/easement to the east, he said he felt it was necessary if there was going to be one ownership on the plat that when the land changes hands that there is an agreement that provides for drainage from the commercial development into that 50-acre basin.

MITCHELL asked if the drainage basin and that 50-acre area provide enough detention in and by itself to solve the problem on Chadsworth?

LINDEBAK said it wouldn’t solve 100% of the problem. He said it would provide additional detention that is not currently there. He said currently the whole area was a large floodplain, on average 4 feet low, and that they would over-excavate to provide compensatory storage, and replace the floodplain fill and supplement it with excavation which will be pumped down through a pump station and provide that capacity that this commercial development is taking.

HILLMAN – left the meeting briefly but returned later.

LINDEBAK continued by saying that fill being excavated in the back 50 acres will be used to help fill the front 30 acres as well as potential additional parcels on the other side of Maize Road to the west. In addition, he said there will be a need for excavation of additional detention because of a small culvert under Maize Road that can't take all the drainage from approximately 1,000 acres on the west side of Maize Road. He said that drainage would have to be contained within a separate basin with a separate pump station. He said the exact engineering has not been completed, but as they have reviewed the drainage plan, they are providing adequate detention and will not make conditions worse downstream through Chadsworth. He said it will provide additional benefit to Chadsworth and it also allows the City to have access to 50 acres of land that they do not currently have access to with a future possibility of expanding that basin that could be excavated upon City Council's approval as well as the 404-permit and all these additional conditions. He said there was also a possibility of acquiring additional land to the north and over-excavating that land, which isn't currently identified, to provide additional detention.

MITCHELL clarified that the City of Wichita has \$1,000,000 budgeted in the Capital Improvement Program (CIP) for drainage improvements in this area. **LINDEBAK** responded that was accurate.

MITCHELL asked about other money being deposited into the total project. And, if so, how much would this plat initiate?

LINDEBAK said he had heard that the Developers' Agreement (which he has not read himself) added another \$700,000 of City funds but that he did not know the total amount for the entire project. He said the Public Works Director and Law would have to discuss that.

MITCHELL asked for clarification that the three items requested in Mr. Carrier's letter: 1) acquisition of the wetland permit; 2) that the project would have to be constructed in conformance to the PEC Plan and 3) that all development shall be in accordance with the documents approved by the City Council included the \$1,000,000 plus "some other number" in the Developer's Agreement?

LINDEBAK indicated that was correct.

MITCHELL commented that there were still a number of unresolved issues that needed to be completed after this body takes action?

LINDEBAK indicated that was correct.

ALDRICH clarified that the City would receive 54 acres of property east of that?

LINDEBAK said that was correct.

ALDRICH asked wasn't that a tremendous cost burden on the City?

LINDEBAK said it would be a petition project, which the City would construct and specials would be spread over a 15-year time period, similar to how typical residential subdivisions are currently done today.

ALDRICH asked what the City would get out of this for their costs?

AUSTIN said the petition that has been presented to the City Council was for \$2.9 million. He said \$1.3 million would be funded from the private side through the improvement district. He said it is contemplated that Mr. Pearson will donate the east 54 acres to the City. He said the other condition was that the estimated annual maintenance expense of about \$75,000 would be paid for outside of the petition but by the private entities. He said any maintenance or improvement to the mitigation for a 5-year period, which is typical of the Corps, would be paid by the private entities. He said City maintenance obligations consisted of the lift station and dry detention pond. He referred to the map and commented that one of the ponds will become an urban fishing pond with public access for fishing with some detention capacity. He said in the 404-permit process there are credits given on the mitigation plan when you provide for public components. He said parking would be provided on the back lot of the commercial development. He said the improvement district includes ponds for New Market Square, which have detention capacity that may be privately maintained. He said they are also having discussion concerning who will maintain the pump at the location.

ALDRICH said he was concerned that the Park Department will wind up taking care of this and he did not believe they had funds in their budget.

AUSTIN said wetlands require little or no maintenance; they just exist in a natural state.

MITCHELL asked if the project was not built, how much of the City's money would be spent?

AUSTIN said if the private development component disappeared and there was no improvement district, the City would still have a drainage problem that would require \$3 million in construction costs, plus the City doesn't own the land which he estimated land acquisition costs to be between \$5 - \$12 million. He said it would cost the City anywhere between \$8-\$15 million to complete the project alone. He said the City Manager, the Law Department and the Public Works Department have conceptually agreed to fully support the project in recent meetings.

BISHOP clarified that the total petition project was \$2.9 million with \$1.3 for the improvement district. She asked **AUSTIN** to indicate the improvement district on the map.

AUSTIN said the improvement district encompassed the entire 80 acres in addition to what was presently owned by New Market. He said New Market received a non-jurisdictional determination from the Corps when they were already under construction so they shut down when the Corps changed their position. He said their share of the costs was \$600,000 and Pearson's share will be \$700,000.

BISHOP also asked for clarification on the first paragraph of item C in the Staff Report that the drainage study of PEC refers to the overall large Cadillac Lake Drainage Plan.

LINDEBAK said that was correct.

BISHOP said the second paragraph talks about specifics related to a drainage agreement, 50-foot drainage easement, etc., so there was a small drainage plan that relates primarily to the Pearson land.

LINDEBAK indicated that was correct.

BISHOP clarified that the City contracted and paid for the 2003 Baughman study.

LINDEBAK indicated that was correct.

BISHOP said the PEC Cadillac Lake Drainage Plan was contracted and paid for by this applicant and New Market Square.

LINDEBAK indicated that was correct.

BISHOP commented that it was being referenced in the report as if it was the City's study. She asked for clarification on that.

LINDEBAK said if the agreement goes into place, the study would be paid for with portions of City funds. He said typically the design and engineering work gets rolled into the total cost of the construction project, part of that \$2.9 million project. He said at that time it becomes a City drainage study. He added that if the City Council does not approve the project, City funds would not be used to pay for the report; the developer will fund the expense.

BISHOP asked how much of the 48% split was for land donation?

LINDEBAK said he couldn't answer that question.

AUSTIN said the value of the land was not considered in the equation.

WARNER asked if it was the Planning Commission's charge to investigate or review the cost of a zone change?

ANDERSON responded "No", not in his opinion.

SCHLEGEL said the Commission had a lot of discretion on what factors to consider in their decision; however, he didn't think it was relevant, in his opinion.

MITCHELL said this wasn't a zone change; it was a plat. He added that he thought it was part of the MAPC's charge to the governing body.

SID ARPIN, Civil Engineer with BG Consultants, stated he was representing Jeff Bannon Auction Realty, Inc., who owns the property just west of Maize Road south of 29th Street, and adjacent to part of the parcels included in this drainage plan project. He referred to the Pearson Commercial Development Plat and said it has influenced the development of the Cadillac Lake Drainage Study, which he said was a 270-page report that was only made available to the Bannons less than two weeks ago, even though the initial copy was submitted to the City in August. He said they have not been made aware of the project or what its conclusion would be. He quoted several passages from the text concerning the objective, which was to evaluate flooding potential in the basin. He said it appears that the study relies heavily on a mitigation plan, presently restricted to the property controlled by the New Market Five, L.L.C. and East Side Investments, L.L.C.

He said they believe if the MAPC approves the plat and associated drainage plan that it will tie the Bannon's ability to develop their property. He said City staff has had the report for months and are very knowledgeable of its content, conditions and conclusion. He said they have asked prior to and at the Subdivision Committee meeting last week if the City could provide a determination that this study report and its recommendations does not directly damage the Bannon's ability to develop their property. He said to date they have not had this assurance. He said they would like the Planning Commission to assure them that if the plat and associated drainage plan is approved, it will not negatively and adversely affect the Bannon's ability to develop their property adjacent to the drainage study. He referenced Subdivision Regulation, Article 7-103 concerning land subject to flooding and access to public documents such as maps, data, and records used in making determinations. He made several comments about being denied access to this public information, and that they have only received the report and none of the data used to generate the report. In addition, he alleged that they have never been given an opportunity to participate in the process. He said they feel that this is a narrow-minded approach for such a complicated study because if the City adopts this study and applies it for any future development, there will be long-term effects to development in the whole basin. He said it appears there are conflicts between the drainage studies and referenced Item C, subsection b in the Staff Report that refers to the PEC drainage plan. He questioned whether City staff knew what the project was or the implications it would have on other adjacent property owners. He said they know that there is detention and that the study shows the Bannon property's detention is connected in, but the project and proposed developer's agreement makes no reference to it. He also said the sizing of the pumps did not include the Bannon property, so they see conflicts in the study and the project and need a definition of what the project is and if it does adversely affect the Bannon property. He said if the study is adopted and tied to this subdivision, they want it noted that there was no city or public participation, that it was all by a private developer for private purposes with one conclusion for a solution, geared towards their mitigation plan. He concluded by saying that maybe there was an alternative, which was a much cheaper and less expensive solution of buying out the property that could be flooded. He said that was not addressed.

JOHNSON asked if the Bannon property was platted now?

ARPIN responded that the property was not platted now, that they had been retained to help develop the property.

HANK BLASÉ, said he has been hired by Mr. Bannon and his company to assist him in this process. He said one question that he doesn't think has been answered yet was, "Whose drainage study is it?" Is it the developer's study or is it the City's study? Is it a City study that is going to be imposed on this current plat, the Pearson Property, and on every other property that is in the Cadillac Drainage Basin? If it is, then the drainage study has not been evaluated properly, it has not had a public hearing. He said if the study is going to be adopted by the Planning Commission, why not have a public hearing where all data can be evaluated to determine how this study came in so different from the Baughman study of 2003. He said that information has not been made available. He said the study itself indicates that an HECHMS Corps of Engineer Program was used for the model. He also referenced recommendation #6 of the study concerning future developments testing the proposed development drainage plan against the basin model. He said they couldn't do that because the model was not being made available. He referenced Section 7-103 of the Subdivision Regulations saying that the data is a part of the Pearson Plat under consideration and is public record. He asked that it be made available. He said the Bannons are not against the Pearson Plat, they want the entire basin to be developed but in such a manner that it is compatible with all the other properties in the basin. He said they want to work together to solve the drainage problem. He said his client has

been trying to do that for a long time and be allowed to participate in the process, but he has been denied that opportunity. He commented on the third recommendation of the drainage study "these ponds, referencing ponds on his client's property, are a necessary component of the overall system." He said it appears that the study requires some involvement of his client's property. He said his client's concern is that he does not want to be negatively impacted. He said if his client knows he will be not negatively impacted, they have no problem with the plat. He said they have no problem with the plat if they are negatively impacted, just as long as they know what the impact is and have the opportunity to deal with it in their platting process. He concluded by asking the MAPC to seriously consider doing a public hearing on this study if it is to be adopted citywide for the drainage basin. He also mentioned that in the Development Agreement, it indicates that the excess dirt from the excavation will go onto the New Market Square property, which will have an impact on the properties to the west and north. He requested that the matter be deferred until they have had an opportunity to evaluate the study and return their comments.

BICKLEY FOSTER, Foster and Associates said he has been working with the Bannons in regard to the process. He said he has followed the Cadillac Lake area and that it was the most difficult drainage plan ever undertaken by the City of Wichita, in his opinion. He said when the City annexed this land there was a sigh of relief at the courthouse because the City had taken over a great problem. He asked how many times the MAPC has been asked to approve a 25 acre plat that has 54 acres of solution to its drainage? He asked don't they wonder if other people are involved, other than this applicant? He commented on two points; namely, should the MAPC approve a final plat wherein the drainage solutions are on other property that may not be part of the conditions attached to this plat? And, the second point was does it behoove the MAPC to indirectly approve the entire Cadillac Drainage Plan, which supposedly commits the City taxpayers to up to \$1.7 million in funds, without further study and consideration? He asked if they wanted to plat 54 acres that the City of Wichita will maintain forever? He said the issue was bigger than just this plat, that it needed a hearing so that other people that are concerned about it can raise questions and get answers.

JEFF BANNON, owner of the property on 29th Street. He stated that Mr. Pearson was a personal friend of his and had been for over 30 years and that he was a very good, honest person. He said Mr. Pearson always believed that everybody in Cadillac Lake who wanted to participate in an improvement district or project should be included. He referenced the drainage study report and remarked that this was what you could buy for \$50,000, 270 pages. He said the front of the report identifies it as "City of Wichita" and he thought that anyone who looked at the report would think that the City of Wichita would claim it, but apparently they really don't claim it. He said he had a discussion with Mr. Austin. He said he asked Mr. Austin why he wasn't included in the improvement district, and Mr. Austin told him the reasons he wasn't included were based upon his representations to him. He said he told Mr. Austin he disagreed and said he was willing to cooperate and participate. He said he has told Mr. Austin for years and months that he was willing to participate and pay his share, more than his share. He said he also told Mr. Austin, if his deal got kinked up for whatever reason, that he was still willing to participate and pay his share. He said Mr. Austin told him if this deal got kinked up, that he was hurting his friend Bruce Pearson. He said he told Mr. Austin that Bruce Pearson understood exactly where he stood on this project, and that as far as he was concerned, Mr. Pearson was the only honest person involved in the development. He said Mr. Pearson has not donated, at this moment, his land to the east. He said Mr. Pearson hasn't agreed to donate that land, to his knowledge. He said he thought Mr. Pearson was generally in agreement, but that it hasn't been done yet. He said he just wanted to point out that everyone acts like Mr. Pearson has bought off on all this, but he didn't think that was the case.

He asked who owns the drainage report at this time? Slawson? He asked if this was the same report that he offered to participate in and offered to pay his share for long ago? He said Mr. Pearson has always been very cooperative with him, but that Mr. Pearson does not attend these meetings because he thinks they are a bunch of nonsense, and that people say things that he doesn't understand. He said Mr. Pearson has given him drafts of documents that have been prepared. He said he has asked for information from people -- Mr. Austin, PEC, the City of Wichita and that no one would give him any information. He said Mr. Pearson has always offered to give him information any that he had available. He commented on the Development Agreement stating that was a pretty involved document. He concluded by saying that he was willing to participate in this project and added that if the public saw the light of day, they would not buy off on this project. He said he would like to be a part of the project and see it be a success.

GISICK asked if the drainage plan would cause any negative affect on the piece of property in question?

LINDEBAK responded, "no it doesn't", and said it also does not affect the future platting of the Bannon property.

JOHNSON asked if this plat was done any different than any other plat or did this follow the same procedure?

LINDEBAK said the same procedures, however, the only difference was that there was a mixture of public and private funds, and that typically the project would be 100% privately backed and paid back, usually with special assessment over a period of 15 years. He said the Drainage Study is a concept at this stage. He said once the plat is approved, the owner/developer doesn't spend another \$50,000 to do the detail work until they have assurances from the governing body that the plat will go through. He said once they have that authorization, they would spend more money to obtain more detailed shots. He said west of Maize Road, there are some details that he would like to have as part of the plat, upstream of 29th Street that don't have a bearing on the area south of 29th Street and West of Maize Road. He said he would give 100% assurance that they will not make any conditions worse than they already are because the plat has already provided additional storage in the floodplain than what is available today.

BISHOP clarified that the fill would be coming from land that is to be donated?

LINDEBAK said not all of it. He said it would be excavated on Slawson's portion. He said the drainage study does show ponds on the Bannon parcel. He said the study showed existing conditions, proposed conditions, and future conditions. He said future conditions evaluated current plats or proposed plats that have been considered and took those into account and revised the model. He said they also reran the model considering the areas within Maize and other unincorporated areas within Sedgwick County if they were to be developed and the overall effect. He said the biggest issue is that everything falls onto the 80-acre tract. He said the City's position is that they don't have an interest in the wetlands, that is a Corps issue. He said the City does not want to make flooding conditions worse for Chadsworth as well as Bradford North and the adjacent subdivisions. He said they have looked at the plan in detail, asked for many revisions and have gone from August to November before approving the drainage plan. He said they didn't want to release the plan to the public, because they were going through revisions and wanted to be able to support one final document. He said they have sent the model to the consultant to evaluate the City's proposed improvements and see how they fit with the model. He said they would be working with Bannon and his group. He said the Public Works Director said it was time for Slawson to begin visiting with Bannon concerning their drainage configuration pump station and start to work out the details of that layout. He said those issues come with time. He concluded by saying that if there was only development on the east, the detention ponds that are being excavated for this plat will provide enough fill for that commercial 30-acre development.

BISHOP clarified that some of the fill was going from the New Market Center excavations over to the Pearson land, not the other way around.

LINDEBAK said those details haven't been addressed; that they haven't looked at all the cut and fill. He said there could be fill that is taken across the street, additional excavation on the west side of Maize Road, because additional detention ponds need to be provided over there. He said that would be addressed when they start reviewing the detailed engineering drawings.

AUSTIN said he has spoken to Mr. Bannon several times and that Mr. Bannon has had an opportunity to participate and because of the subdivision process, Mr. Bannon still has an opportunity to participate. He said when Mr. Bannon goes to plat his property, all he has to do is present a petition and the governing body, if they so choose, can include him in the improvement district. He said the permit and design process will be any where from 6-9 months. He said there is plenty of time for the Bannon group to review it. He said they are attempting to schedule a meeting for next week between Baughman, the City, Mr. Bannon, and all the property owners will be included. He said the difficulty with the model was that where you normally worry about one foot of changes in the model, he said with this model, they were worried about one inch changes. He said it was very detailed, critical information that took time, and until they knew what the results were, it was not appropriate to release it. He said that this was no different from any other plat. He said they all do drainage studies, they present that information and it becomes part of the public record at that time. He said there was no detention on the 26-acre plat and off-site drainage agreements would be used as appropriate. He said he could argue that the Drainage Study for the basin wasn't part of the plat. He said there would be no development if the permit wasn't approved. He concluded by stating that there was no sound basis for deferring the case. He said the Bannons would have an opportunity to participate.

MELINDA BANNON said her main concern is not that the City of Wichita does not know what they are doing when it comes to drainage, especially Mr. Lindebak and Mr. Carrier. She said they have great respect for Mr. Carrier in particular and some of the work that they have seen him do. She said their main concern was the exclusion of their participation in an improvement district that is being contemplated as part of this plat. She said all of the orange tract on the west side of the map that belongs to Slawson would be included in the improvement district, and on that tract would be a pump station. She said maybe Mr. Slawson would call them next week to see how much money it would cost them to be included, when it was their understanding that this was part of the \$2.9

million project that the City was going to be paying \$1.7 million of. She said the other consideration was that Mr. Austin said they could potentially be involved in a 404-permit, not that it was too late, but it was convenient for him to say that when he is asking for the MAPC's approval when they have been barred from participation up to this point. She said they had contacted the consultant, Burns and MacDonald to consult with them on this issue. She said Burns and MacDonald were unable to work with them because of a conflict, because they had done work with the City of Wichita, but now they are the consultant for the applicant's contract/purchaser and the Slawson Company. She said the City has been arbitrary against them and that is what their big issue is. She said she thought that should be an issue the MAPC should consider as a Planning Commission because it was their charge to see that the planning was orderly so that it does not result in costly results and costly results could result from this approval if they are forced in a corner to sue the City of Wichita or some type of action for being arbitrary against them. She said she thought that would be costly for the City of Wichita. She said she also thought it would be costly for the City of Wichita to potentially have to condemn more of their property because it was a necessary component of their plan to develop this area, when it would be much more logical to be more inclusive.

DUNLAP clarified that he understood Mr. Lindebak told them there would be no detrimental affect to the Bannon property.

LINDEBAK said that is correct.

MARNELL commented that the MAPC does not approve drainage studies as such. He said secondly, professional staff does plats and drainage conditions on plats and the MAPC depends on that professional staff to give them their recommendation, which they have. He said he could look at the drainage plan; but he was not a civil engineer. He said he would support the motion.

MITCHELL said they have asked the City Engineers office about the subdivision plat for a number of weeks. He said they now have it and the agreement has been developed on financing of the necessary improvements. He said he thought they needed to go ahead and approve the plat on that basis.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (12-0).

3-4. SUB 2006-73: Final Plat -- TARA CREEK ADDITION, located north of Pawnee and on the west side of 127th Street East.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The site has already been included in the sewer main benefit district.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. *The drainage plan is approved subject to a revised plan being submitted prior to MAPC review. The applicant shall submit more information to determine the need for a guarantee for stormwater improvements or the need for an increase in the size of Reserve A. A minimum pad elevation is needed adjoining Reserve A.*
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes one street opening to 127th St. East and complete access control along Mt Vernon. *Access controls are approved.*
- F. **Traffic Engineering** has requested the dedication of 20 feet additional street right-of-way along Mt Vernon.

The applicant will be providing a 20-ft contingent street dedication overlaid with a 20-ft drainage easement.

The contingent street dedication has been platted as requested. On the final plat, the contingent dedication of right-of-way needs to be referenced in the plat's text as follows, "The contingent street dedication shall become effective in the event that the City determines a need for the right-of-way for any street-related purposes."

- G. The Applicant shall guarantee the paving of the proposed streets.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. **GIS** needs to comment on the plat's street names. **Street names are approved.**
- L. **City Fire Department** has requested a second point of access. **The Subdivision Committee has approved a second point of access extending to Mt Vernon. This access easement may be established by separate instrument. A restrictive covenant shall be provided that: a) limits development to 30 lots prior to a secondary access being constructed, and b) provides for the elimination of the secondary access upon the construction of a connecting street to the west.**
- M. **City Fire Department** requests a temporary turnaround at the west property line. This turnaround can either be established by the plat or by separate instrument, with the vacation of the temporary cul-de-sac being effective upon the extension of the street westward.
- N. The right-of-way width needs to be denoted for Mt Vernon.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's

responsibility to contact all appropriate agencies to determine any such requirements.

- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

SCHLEGEL reported that the applicant has requested a two-week deferral on this case.

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- 3-5. **SUB 2006-102: One-Step Final Plat -- PALACE EAST ADDITION**, located on the north side of Kellogg and on the west side of Greenwich Road.

NOTE: This is a replat of a portion of the David's East First Addition.

STAFF COMMENTS:

- A. City water and sewer services are to be available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. An off-site drainage agreement is needed.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes two access openings to Greenwich. **The access openings are approved.**
- E. **Traffic Engineering** needs to comment on the contingent street dedication for Kellogg Drive. **The contingent right-of-way width is approved.**
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (13-0).

- 3-6. **SUB 2006-103: One-Step Final Plat -- LEGACY 3rd ADDITION**, located north of 47th Street South and west of Meridian.

NOTE: This is a replat of a portion of the Legacy Addition, which includes 12 additional lots. The street layout has been revised to include a loop street (43rd St. South) connecting two cul-de-sacs.

STAFF COMMENTS:

- A. The applicant shall extend water and sewer to all lots being platted and include sewer main in lieu of assessment with lateral petition.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A minimum pad is needed.**
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance

responsibilities of any such previously platted reserves.

- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body. **In addition, the covenant shall include language that the proposed concrete flumes in the rear yards shall be the responsibility of the homeowners.**
- G. The vicinity map is mislabeled.
- H. The Applicant shall guarantee the paving of the proposed streets.
- I. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. **GIS** needs to comment on the plat's street names. **Revised street suffixes are needed.**
- K. The Applicant needs to denote the pipeline easement indicated on the Legacy Addition and in the platting binder. The easement shall be shown if encumbering this plat, or verification provided that it is off-site or has been released.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**

- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (13-0).

- 3-7. **SUB 2006-101: One-Step Final Plat -- GROENDYKE TRANSPORT ADDITION**, located north of 29th Street North and west of Hydraulic.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City water and sewer services are available to serve the site. The applicant is advised that sewer is available only at the three manholes located in the right-of-way on the east side of Ohio.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A minimum pad is needed in the Reserve.**
- D. **City Engineering** has requested the applicant participate in a paving petition for 33rd St. North.
- E. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- F. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (13-0).

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- 3-8. SUB 2006-99: One-Step Final Plat -- WICHITA SAFETY FACILITY ADDITION**, located on the east side of 343rd Street West to west side of 327th Street West, and the north side of 103rd Street South to the south side of 111th Street South.

NOTE: This is an unplatted site located within the City. A portion of the site has been approved for a zone change (ZON 2006-34) from SF-5, Single-Family Residential to GI, General Industrial. A Conditional Use (CON 2006-37) has also been approved for Hazardous Operations for a municipal safety operation.

STAFF COMMENTS:

- A. On-site sewerage facilities are not needed for the proposed use of the property. Since municipal water is not available to serve this property, the applicant shall contact Environmental Services to find out what tests may be necessary and what standards are to be met for approval of on-site water wells. A memorandum shall be obtained specifying approval. *The "fenced lagoon" denoted on the site plan will be deleted.*
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City/County Engineering needs to comment on the status of the applicant's drainage plan. *County Engineering requests a drainage plan and flood study for review. A minimum pad is needed.*
- D. A note on the plat specifies that the access openings along perimeter streets shall be placed in accordance with Access Management Standards. *The final plat tracing shall reference the dedication of access controls in the plat's text.*
- E. The reference to "Reserves" in the plat's text shall be omitted.
- F. The case number of the conditional use referenced in the plat's text should be corrected to read "CON 2006-37".
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

- 4-1. VAC 2006-33: Request to Vacate a Portion of Platted Right-of-way**, generally located north of K-96 and west of the Webb Road - 31st Street North/Toben Street intersection.

APPLICANTS: Gorges Enterprises, L.L.C. Fountain Square, L.L.C.

AGENT: Poe & Associates, Inc, c/o Tim Austin

LEGAL DESCRIPTION: Generally described as the middle 15-feet – 9-feet (x) 92-feet of Toben Street, as recorded in the Mediterranean Plaza Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of K-96 and immediately west of the Webb Road – Toben Street /31st Street North intersection (WCC #II)

REASON FOR REQUEST: Proposed sign site

CURRENT ZONING:

The site is platted public street right-of-way. All abutting and adjacent properties are zoned "LI" Limited Industrial.

The applicant proposes to vacate a portion of the platted Toben Street/31st Street North (Toben) ROW, which is generally located in the middle of Toben, immediately west of its intersection with Webb Road. The applicant proposes to use the vacated ROW for a sign site, which is associated with proposed PUD2006-00003. The proposed signs for the PUD (including the site created by the vacated ROW) would have to conform to the sign code's standards. That would include application of those standards of spacing between signs, the number of sign's allowed and the total square footage of area for signs along the PUD's Webb Road frontage, which the proposed vacated ROW/site would be part of. The applicant has proposed a dedication of additional/matching ROW to maintain Toben's current width. The applicant has also proposed a reconfigured entrance of Toben's ROW onto Webb Road, which must be approved by the Traffic Engineer. The proposed reconfigured ROW goes 0-feet – 15-feet deep into the north lot line of Lot 8, Block 3, Mediterranean Plaza Addition and its parallel platted 35-foot setback. There appears to be a water line in this portion of ROW, but no sewer line or manholes. Comments from Storm Water and franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Mediterranean Plaza Addition was recorded with the Register of Deeds March 16, 1988.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted street ROW, as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 16, 2006 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street right-of-way and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted Toben Street ROW as described in the petition should be approved with conditions:

- (1) The proposed signage of the associated PUD2006-00003 must be approved prior to vacation of the proposed portion of Toben Street. Approval of the request is contingent on approval of the PUD that will allow the signage necessitating this vacation request. If the PUD is denied then this vacation request is null and void.
- (2) The proposed reconfiguration (the result of the proposed vacation of Toben) of Toben Street must be approved by the Traffic Engineer, including possible consideration for a sign being located in the proposed vacated portion of Toben Street. If the proposed vacated ROW is not approved as a site for a sign for the associated PUD2006-00006, the Traffic Engineer may determine that the proposed vacation is not necessary. Provide Planning with a legal description of the approved vacated portion of the platted Toben Street ROW on a Word document via e-mail.
- (3) Provide Planning with an original dedications by separate instrument additional ROW for Toben Street and Webb Road, as approved by the Traffic Engineer, to be recorded with the Register of Deeds with the Vacation Order.
- (4) Provide Planning with an original dedication by separate instrument additional setback(s) to maintain the existing platted 35-foot on either side of Toben, to be recorded with the Register of Deeds with the Vacation Order.

- (5) Provide Planning with an original Restrictive Covenant identifying and establishing the approved vacated portion of Toben ROW as "Reserve A", binding and tying it and its maintenance and repair to the associated approved PUD2006-00003, to be recorded with the Register of Deeds with the Vacation Order.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary retain any and all of the vacated ROW as a utility easement. If needed provide a guarantee for any relocation of a hydrant, water line and a storm water catch basin necessitated by the vacated ROW.
- (7) All improvements shall be according to City Standards and at the applicant's expense. Provide a guarantee for the reconfigured Toben ROW and construction of "Reserve A" (see condition #5).
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The proposed signage of the associated PUD2006-00003 must be approved prior to vacation of the proposed portion of Toben Street. Approval of the request is contingent on approval of the PUD that will allow the signage necessitating this vacation request. If the PUD is denied then this vacation request is null and void.
- (2) The proposed reconfiguration (the result of the proposed vacation of Toben) of Toben Street must be approved by the Traffic Engineer, including possible consideration for a sign being located in the proposed vacated portion of Toben Street. If the proposed vacated ROW is not approved as a site for a sign for the associated PUD2006-00006, the Traffic Engineer may determine that the proposed vacation is not necessary. Provide Planning with a legal description of the approved vacated portion of the platted Toben Street ROW on a Word document via e-mail.
- (3) Provide Planning with an original dedications by separate instrument additional ROW for Toben Street and Webb Road, as approved by the Traffic Engineer, to be recorded with the Register of Deeds with the Vacation Order.
- (4) Provide Planning with an original dedication by separate instrument additional setback(s) to maintain the existing platted 35-foot on either side of Toben, to be recorded with the Register of Deeds with the Vacation Order.
- (5) Provide Planning with an original Restrictive Covenant identifying and establishing the approved vacated portion of Toben ROW as "Reserve A", binding and tying it and its maintenance and repair to the associated approved PUD2006-00003, to be recorded with the Register of Deeds with the Vacation Order.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary retain any and all of the vacated ROW as a utility easement. Provide a guarantee for any relocation of a water line and a storm water catch basin affected by the vacated ROW.
- (7) All improvements shall be according to City Standards and at the applicant's expense. Provide a guarantee for the reconfigured Toben ROW and construction of "Reserve A" (see condition #5).
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARINGS**

5. **Case No.: ZON2006-38** – USD 259 c/o Joe Hoover (owner); Garrison Construction Co., c/o Gary Hassenflu (contract purchaser) Request Zone change from “LI” Limited Industrial to “B” Multi-family Residential. *(approved by MAPC on 10-5-06, heard by WCC on 11-7-06 and returned to MAPC)*

Lots 149, 150, 151, 152, 153, 154, 155, 156, 157 and 158 together with School Reserve in Hunter's 3rd Addition to Wichita, Kansas, Sedgwick County, Kansas.

AND

The South 40 feet of Lot 8 and the North 37.5 feet of Lot 9, Brookside Addition to the City of Wichita, Sedgwick County, Kansas. Generally located and Pattie (1220 E. Kellogg).

BACKGROUND: The application area, the Kellogg Elementary School building, is currently zoned “LI” Limited Industrial, consistent with its location along Kellogg/US-54. The applicants wish to convert the existing school building into apartments, and construct additional freestanding apartments on the site. LI zoning prohibits residential use; therefore the applicants have requested a zone change to “B” Multi-family Residential, which is considered a down-zoning. B zoning permits up to 75 dwelling units per acre. The applicant could request a down-zoning to any level of commercial or office zoning, which would permit residential development as well. But, the applicant wishes to restrict the redevelopment of the property to multi-family residential. “GC” General Commercial, “LC” Limited Commercial, and “GO” General Office all permit 75 dwelling units per acre, equivalent to the B zoning residential density.

Most surrounding properties are zoned LI, with the exception of several rezonings to enable the refinancing or sale of residential properties. All immediately surrounding properties to the north and west are developed with single-family residences. East of the site, across Pattie, is a mixture of warehousing, manufacturing, parking, and residential uses. Further east of the site, east of Lulu, is a large church complex. South of the site is Kellogg/US-54, a limited access freeway.

To the north side of Waterman Street, approximately 1000 feet north of this site, the Douglas Street corridor was rezoned in 2005 from LI to “CBD” Central Business District. The purpose of that rezoning was to enable residential development, and increase flexibility for redevelopment of older buildings within that corridor.

Residential conversions of institutional and commercial structures have become more common within the city. Re-use of elementary school sites, churches, and many warehouse/commercial structures are successful local examples of this concept.

CASE HISTORY: The site was platted as Lots 149 through 158 and School Reserve, Hunters 3rd Addition in 1889. The platted School Reserve would require re-platting for other than school uses.

ADJACENT ZONING AND LAND USE:

NORTH:	“LI”	Single-family residential, office
SOUTH:	“LI”	Kellogg freeway
EAST:	“LI”	Warehousing, manufacturing, residential
WEST:	“LI”, “LC”	Single-family residential

PUBLIC SERVICES: The site has access to Pattie and Laura, both paved local streets with an 80-foot right-of-way. The site has nearby access to Kellogg via Washington Street. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Development Mix”, which encompasses areas that will be developed or redeveloped with Urban Residential uses, as well as Major Institutional uses, Local Commercial uses, and Park and Open Space uses.

The Comprehensive Plan medium and high-density residential locational guidelines, and several specific Plan objectives and strategies, encourage infill and increased residential density within the city core area, near public transportation, near main transportation arteries, and near employment hubs.

Multi-family development on the site would require Unified Zoning Code (UZC) setbacks on the site, a landscape plan, and conformance to the UZC parking requirements.

RECOMMENDATION: A small business owner in the immediate area who is opposed to the zone change and multi-family development contacted planning staff; the business owner feels that multi-family use may conflict with businesses in the area. Under B zoning, the site could be developed in theory with up to 75 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is zoned “LI” Limited Industrial, with a few exceptions where rezonings enabled sale or refinancing of residential properties. The immediate neighborhood has seen significant transition. Kellogg transitioned from a surface street to an elevated limited access freeway. The building on this site ceased serving as an elementary when the school district no longer needed it. Several small businesses moved in along the Kellogg frontage, as land was available with good access to Kellogg. The Douglas Street corridor, extending south to Waterman, was rezoned to Central Business District to allow residential development and flexible redevelopment of older buildings. The neighborhood has single-family residences north and west of the site. The request is not out of character with the mix of uses in the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with any use other than residential. The school building may not be easily renovated for all office, commercial, or industrial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would permit dense residential development. The affect on nearby residents and businesses would be increased traffic on Laura, Pattie, and Lewis. The minimum standards of the Unified Zoning Code, to include setbacks, should mitigate potential negative effects on the surrounding residential neighbors. The proposed project could have significantly less impact on surrounding property owners than commercial or industrial uses permitted under the current zoning.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Development Mix”, which encompasses areas that will be developed or redeveloped with Urban Residential uses, as well as Major Institutional uses, Local Commercial uses, and Park and Open Space uses. The request is in general conformance with the locational guidelines and goals of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Traffic on the existing local streets will increase as a result of the proposed development. However, this site has good access to Kellogg, a limited access freeway, to Lulu and Waterman, both urban collectors, and Douglas and Washington, both arterials.

MCKAY announced that he had been contacted on this item.

MCNEELY briefly reviewed the item stating that the MAPC approved the zone change request in October; however, the City Council returned the request to the MAPC for further discussion and action. He said on October 2 DAB I voted 6-3 to deny the request. He said on October 5 the MAPC voted 9-3 to approve the request. He said 26% protest petitions were received from the surrounding businesses and church properties on the case and that anything over 20% requires a 3/4 majority of the City Council to override the MAPC recommendation. He said the City Council voted to return the application to the MAPC and specifically asked that the applicant, neighborhood, business owners and church meet to discuss the project. He referred MAPC members to an e-mail handout dated November 18, which documented discussion at the neighborhood meeting. He said it appeared that the neighborhood residents were supportive of the request; however, the business owners and church remain opposed.

He added that Limited Industrial zoning prohibits residential development, but one block east of the area the zoning was General Commercial, which does permit residential development. He said north of Waterman and west of Washington was recently rezoned to "CBD" Central Business District to encourage mixed-use redevelopment, to include residential, in those areas.

Tape 1, Side 2

He said the residences in the area have been converted to businesses over time including a plumbing business, advertising firm, and others. He said the Land Use Guide in the Comprehensive Plan addresses urban mixed development and specific objectives and strategies to increase residential use in the core area. He said staff continues to recommend approval of the request. He added that the project would benefit the entire neighborhood, although they recognize that business owners in the area fear a conflict with their business.

ANDERSON asked the Commission if they wanted to take further public testimony on this issue.

MARNELL said he didn't, unless there was something new significant about the case.

MITCHELL said he would like to hear what the public had to say, based on the District Advisory Board and City Council action.

DAN SYLER, 7100 Mission Road, Prairie Village KS, representing the Garrison Company said since the MAPC has heard their presentation previously, he just wanted to mention a few items including that the project would redevelop an historical structure; that they would be investing \$5 million into the property; and that they had a strong track record for doing projects and doing them well. He concluded by saying that Garrison felt they could produce a product that the neighborhood would be proud of.

MARNELL asked if their tax credit was based on purchase of the property.

SYLER responded that their purchase of the property was subject to approval of the requested rezoning.

DWAYNE CREEKMORE said he specifically asked if the neighborhood association had voted on the request at the neighborhood meeting a couple of weeks ago and they said they had not made a decision on the project. He added that the neighborhood association understood from the company representative that these would be "luxury" living units. He said he thought they were pretty standard, not luxury units. He added that most of the people in the neighborhood association live south of Kellogg, but that the project is located on the north side of Kellogg. He said he opposes the request for several reasons including access to Kellogg is mediocre at best, these are not "walk up" retail business in this area, they are commercial and industrial warehouses, and that this location was not a place for apartments, walking or children. He said there was zero support from the businesses in the area for apartments.

JANICE RICH, 618 Greenwood, said she was President of the Hyde Neighborhood Association and that she has been a homeowner in the area for 28 years. She commented that they had toured the Garrison Company project at 33rd and Rock Island, which they understood was very similar to what was being proposed for the Kellogg School. She said they were luxury apartments, in her opinion, and were much better than average apartments. She mentioned that they were income based and that the rental formula specified that rent couldn't be any less than 1/3 of the renter's monthly salary. She said she had done "her homework on the project" and felt that the apartments would be an improvement for the neighborhood. She said the businesses that were close by were not incompatible with people living by them. She said she did not feel like it was an industrial area because one block away was a flower shop, bridal shop, and antique store. She mentioned that the neighborhood has changed as residents have moved out and more businesses have come in. She said Old Town was moving east and with the arena being built, property values will rise. She concluded by saying that it didn't help the neighborhood to have the building standing empty.

ALDRICH asked about the neighborhood association boundaries and the neighborhood association vote on the project.

RICH said the boundaries were Lincoln, Washington, First Street, and I-135. She said they didn't vote on the project and that the neighborhood association doesn't really have an official stance on the project because they couldn't seem to come to a consensus. She said her conclusion was that this would be a big improvement in their

neighborhood north of Kellogg where there is a high rate of rental and blighted property. She said most of the people who attended the meeting lived south of Kellogg.

ALDRICH asked about feedback from residents on the north side of Kellogg.

RICH said she knocked on doors trying to get people to participate in the meeting and the only comment she got was from a woman who was concerned about traffic.

DARRYL CREEKMORE, 440 Pattie said he owns 3 parcels and lives in the area. He said they have less crime now than 10-15 years ago. He said most of the area has converted to commercial and that it is also more peaceful now. He said he is concerned about property values declining and construction of apartments will mean more people, children, traffic, etc. and the value was not there. He said in the past there was a problem with traffic when the school was open. He said Kellogg is cut off so all traffic must go north. He concluded by saying that he objected to the rezoning.

TIM BUCHANAN, First Church of the Nazarene, 1400 East Kellogg, said he appreciated the clarification that there was no vote at the neighborhood meeting. He said the church has been there 90 years, they own 50 properties in the area, they have filed protests on each property, and they are interested in the successful growth of the neighborhood. He referred MAPC members to visuals he brought which he said told a bigger and more complete story of decay in the area. He said the commercial businesses in the area conflict with residential. He said many people bought properties with expectation of being able to convert them to commercial. He referred to several pictures of the area including several shots of Lewis, Ida, Laura, Lewis and Laura which depicted abandoned vehicles, auto mechanic shops, a carpet cleaning business, a paint shop, a machine shop and the school yard.

ANDERSON commented that **BUCHANAN** needed to contact Code Enforcement about the conditions in the area, and questioned the purpose of his presentation.

BUCHANAN said he didn't think this was a great neighborhood for residents. He added that it had been mentioned that there was no interest in this building for any other use. He said there had been an engineering firm in negotiations with the school board to buy the building and turn it into their offices, prior to the Garrison project.

SYLER referred MAPC members to the copy of the development planned narrative summary in their packets. He said the 39 units will create substantially less traffic than when the building was used as a school; he said it was well documented that adding residential in an area will decrease crime; he said Garrison Company was spending \$5 million in development to improve the area; and that they don't want to upset the neighbors and will construct a quality product. He concluded by saying that they take great pride in ownership and that they will be luxury units. He said they were spending \$5M on 39 unit; they were not building shanties.

BISHOP asked if there was a "sunset clause" on the rent breakdown so they would go to "market rate" at some point?

SYLER said there was a 15-year compliance period where they maintain the property and rental rates. He said they did have the ability to raise the rent 2% a year to keep up with inflation, if they can't go market rate or turn the units into condos. He said they have never sold a property since they have been in business 14 years; that was not what they do.

MARNELL asked about tax credits for the project.

SYLER said it was an historic and low income tax credit project.

MOTION: To deny the application

MITCHELL moved, **ALDRICH** seconded the motion.

SUBSTITUTE MOTION: To approve subject to staff recommendations.

BISHOP moved, **MARNELL** seconded the motion, and it failed (7-6).

ALDRICH, DUNLAP, HENTZEN, MCKAY, MITCHELL, SHERMAN, WARNER – Nay.

Vote on the original motion carried (8-5).

BISHOP, GISICK, HILLMAN, JOHNSON and MARNELL – Nay.

6. **Case No.: ZON2006-44/CUP2006-45** - Ritchie Associates, Inc., c/o Rob Ramseyer (owner); MKEC Engineering Consultants Inc., c/o Greg Allison (agent) Request Zone change request from “SF-20” Single-family Residential to “LC” Limited Commercial and create DP-302 Krug South Community Unit Plan

A tract of land located in the Northeast One-Quarter of Section 11, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas and being more particularly described as follows: Beginning at the Northeast corner of said Northeast One-Quarter; thence along the East line of said Northeast One-Quarter, on a Kansas coordinate system 1983 south zone bearing of S 00 degree 53'20" E, a distance of 850.00 feet; thence S 88 degrees 37'33" W, parallel with the North line of said Northeast One-Quarter, a distance of 1153.19 feet; thence N 00 degrees 53'20"W, parallel with the East line of said Northeast One-Quarter; a distance of 850.00 feet to a point on the North line of said Northeast One-Quarter; thence along said North line, N 88 degrees 37'33" E, a distance of 1153.19 feet to the point of beginning. Said tract contains: 20.00 acres more or less. Generally located on the southwest corner of 21st Street North and 143rd Street East

BACKGROUND: The applicant proposes to create a commercial community unit plan containing approximately 20 acres consisting of four parcels for development. Proposed zoning is “LC” Limited Commercial. The property is located on the southwest corner of 21st Street North and 143rd Street East. Parcel 1, the largest parcel, is 12.9 acres in size and occupies the southern 500 feet of the tract; one access drive connects it to 21st Street North. Parcels 2, 3, and 4 are located directly along 21st Street North and range in size from 1.8 acres to 3.1 acres.

Requested uses would be those allowed by right in LC except: assisted living, group residence, group home, parks and recreation, recycling collection station, utility, kennel, night club, pawn shop, sexually oriented business, tavern and drinking establishment and wireless communication facility.

Maximum building coverage would be 35 percent of the land area, which exceeds the Unified Zoning Code maximum allowable coverage of 30 percent; it will be recommended to reduce the coverage to 30 percent. Maximum gross floor area would be 35 percent. Building setbacks are proposed as 40 feet on south and west and 20 feet on east and north. The UZC minimum requirement is 35 feet. It is recommended the CUP setbacks on the east and north be revised to conform to UZC requirements.

Buildings would have uniform architectural compatibility and parking lots would have similar or consistent lighting elements, limited to 25 feet in height, lowered to 15 feet within 100 feet of residential use. Window display signs are limited to 25 percent of the window area.

Monument signage would consist of one sign on 21st Street North and one sign on 143rd Street East at a maximum of 25 feet in height and 150 square feet in sign face area, and the remaining monument signs would be a maximum of 10 feet in height and 100 square feet in sign face area. The monument signs would be spaced 150 feet apart except that they have requested the spacing between the taller (25-foot) signs and adjacent signs may be allowed at 100-foot spacing. Flashing signs (except time, temperature, public service messages) moving, portable, billboards, banners and pennants would be prohibited.

The site currently is in agricultural use and is part of the Krug South Addition plat that has been filed for the property plus the land to the south and southwest. This plat proposes approximately 160 residential lots plus this commercial tract. The property to the southeast is zoned “SF-20” Single-family Residential and to the northeast is zoned “RR” Rural Residential; current development to the southeast and northeast consists of farmsteads, agricultural tracts and large suburban tracts. A church, a small lake and a single-family subdivision, Chestnut Ridge, are located to the north/northwest on property zoned SF-5. Reed’s Cove, a single-family residential subdivision is located west of the creek that borders the Krug South Addition.

CASE HISTORY: The property is unplatted. The property was annexed to the City of Wichita effective October 26, 2006.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family, church
SOUTH:	SF-5	Agricultural
EAST:	SF-20, RR	Farmsteads, agricultural tracts and large suburban tracts
WEST:	SF-5	Single-family

PUBLIC SERVICES: Two major access openings are shown onto 21st Street North and one on 143rd Street East. The access nearest 143rd Street East should be right-in/right-out only because it is less than 400 feet from the intersection of 143rd. A third access point, not labeled on the CUP but possible per Access Management Policy on the western portion of Parcel 4, would be right-in/right-out only. 21st Street North is an urban principal arterial developed as a four-lane road with shoulders. It is scheduled for reconstruction to urban four-lane standards in 2012. 143rd Street East is a two-lane paved urban minor arterial.

Traffic counts on 21st Street North for eastbound 21st at 143rd Street East are 11,000 vehicles per day and for westbound are 14,000 vehicles per day. These are high counts for a two-lane facility and confirm reports from staff and neighbors that the street is significantly impacted by traffic congestion during peak hours already. Projections for 2030 volumes are 18,000-18,500 vehicles per day at this intersection on 21st Street North. Current traffic counts for 143rd are 3,000 vehicles per day; the 2030 projection is 6,000 to 7,000 vehicles per day.

Other municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “local commercial” at the intersection and “urban development mix” for the balance of the tract. The proposed development is in conformance with this designation except that the size of the tract (20 acres) exceeds the size shown for local commercial (approximately 6-10 acres).

Commercial Objective III.B encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The tract has access due to its location on the 21st Street North, but currently this street is congested during peak volume hours and increased traffic from this site will aggravate this situation. No significant clusters of retail commercial activities are located at this intersection today although the northeast and southeast corners also are designated for local commercial use. Minimizing detrimental impacts to the residential neighborhood to the north (Chestnut Ridge) can be improved with additional land use and site restrictions. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. Requirements for similar landscaping and shared or similar signage would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards but the easternmost access point on 21st Street North would be right-in/right-out per the Access Management Policy. The southernmost access point on 143rd Street East lacks the full 400-foot separation (300 apart from centerline to centerline) of the Access Management Policy. However, the closest access point to the south is over 800 feet away, thus keeping the total number of access points low.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 25 feet, reduced to 15 feet within 100 feet of residential use. Wider setbacks, enhanced landscaping and use restrictions would mitigate conflicts with the residential properties.

RECOMMENDATION: The recommended changes reduce the intensity of uses and strengthen the buffering of the site on the portion of the CUP most visible from the residential areas to the north and west, and enhance the compatibility of the CUP with *Comprehensive Plan* and Unified Zoning Code regulations for planned commercial uses in proximity to residential areas. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-44) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-302), subject to the following conditions:
1. Transportation improvements:
 - a. Revise access on 21st Street North to conform to Access Management Policy with one full movement and with eastern and western entrances on 21st Street North limited to right-in/right-out only.
 - b. Provide petition(s) to guarantee construction of left turn center lanes to all major entrances (one on 21st and two on 143rd Street East) and decel lanes into all four entrances.
 2. Revise the CUP to designate the northwest corner of site labeled as a drainage easement as a Reserve; remove this area from Parcel 4 and Parcel 1 area calculations.
 3. Revise Parcel Descriptions as follows:
 - a. Total allowable floor ratio, eliminate the phrase: “(may be adjusted from parcel to parcel)”
 - b. Arterial street setback = 35 feet
 - c. Interior side setback = 15 feet (See General Provision #9)
 - d. Revise Parcel 1-4 Descriptions to limit the maximum building coverage to 30 percent of land area
 - e. Correct the maximum building coverage, maximum gross floor area and FAR calculations
 - f. Revise to add “Maximum Number of Buildings = 3” for Parcel 1, “Maximum Number of Buildings = 1” for Parcels 2-3, “Maximum Number of Buildings = 2” for Parcel 4
 4. Add to General Provision #3A: “cemetery; golf course; marine facility, recreational; all industrial, manufacturing and extractive uses.”
 5. Delete from General Provision #3B: “unless specifically identified.”
 6. Add General Provision #3C: Parcel 4 shall be restricted to those uses permitted in the “NR” Neighborhood Retail zoning district. No overhead doors, drive-through or in car service (for restaurants, banks, etc), service station, fuel outlets or gas pumps shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district, and queuing for drive-through lanes (restaurants, ATMs, etc.) shall not direct vehicle headlights into any abutting residential zoning district.”
 7. Add General Provision #3D: “No single tenant shall exceed 40,000 square feet except a drug store or a grocery store on Parcel 1.”
 8. Revise first sentence of General Provision #4: “as approved by the Director of Planning.” Revise second sentence by deleting “, unless approved by the Director of Planning.”
 9. Add to General Provision #6A: “and shall utilize a shared palette of landscape materials.
 10. Add to General Provision #7E: “and is prohibited on Parcel 4.”
 11. Add to General Provision #8A: “with screening materials matching the building roof or wall materials.”
 12. Add to General Provision #8B: “with materials matching or similar to the building façade materials.”
 13. Replace General Provision #8E: “A screening wall in conformance with Section III-C.2.b shall be constructed along the south and west line of Parcel 1 and west line of Parcel 4, unless if the building in Parcel 4 abutting the Reserve is designed to use the creek as an amenity with a double-faced façade and with no outdoor work, storage, or loading areas on the west property line, the screening wall may be replaced with landscaping. The landscaping shall consist of the existing mature trees, or if these trees are removed, with replacement trees planted at a minimum rate of one tree per 40 feet of property line and a three to four foot high berm and solid evergreen screening of any parking lot area.”
 14. Revise General Provision #8F: connect sentences 1, 2 and 3 to make a complete sentence; replace “North” with “south and west”; replace “utility easement” with “utility or drainage easement.”
 15. Add 5’ wall easement on south and west property line on the CUP drawing, with the west line following the edge of the drainage easement.
 16. Add to General Provision #10B: add the word “offsite” after billboard.
 17. Revise General Provision #10C: Ground signs shall consist of all monument style signs, and share similar elements in design.” One sign on 21st Street North and one sign on 143rd Street East shall have a maximum height of 25 feet and a maximum sign face area of 150 square feet and be used for development identification as well as tenant signs for tenants within the CUP. Additional monument signs shall have a maximum height of 10 feet and a maximum sign face area of 100 square feet.”
 18. Revise General Provision #10D: “Signs shall be spaced a minimum distance of 150 feet apart except that this spacing may be reduced to 100 feet between the development identification sign and the adjacent monument sign. However, calculations of the maximum number of sign locations per street frontage shall

be based on a distance separation of 150 feet between sign locations (allowing a maximum of five signs on 21st Street North and four on 143rd Street North when one sign is shared at the corner of Parcel 2)”.

19. Delete language in General Provision #10E and replace with language in #10J.
20. Delete language in General Provision #10F and replace with language in #10I.
21. Delete General Provision #10H.
22. Revise General Provision #10E: “Building wall signs shall be prohibited on the south and west elevations of Parcel 1.”
23. Replace General Provision #12 with the following language: “The existing trees in the drainage easement shall not be removed unless required for drainage purposes by the City Engineer, in which case they shall be mitigated by landscaping on Parcel 4.” No impervious surface or buildings shall be developed on the drainage easement except sidewalks.”
24. Revise General Provision #14B & #14C to conform to Recommendation #1 herein.
25. Revise General Provision #14D: Revise sentence 2 “The traffic circulation plan shall assure smooth internal vehicular movements, joint use of ingress/egress openings, and ensure that the main drives are not blocked by parking spaces directly backing onto the main drive aisles. The pedestrian circulation system shall connect all buildings within the development to each other and to the arterial sidewalks on 21st Street North and 143rd Street East; and may connect to adjoining properties.”
26. Add General Provision #14E: “A site traffic and pedestrian circulation plan for each parcel, upon request for a building permit, shall be reviewed for compliance with the overall site traffic and pedestrian circulation plan.”
27. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
28. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
29. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
30. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-302) includes special conditions for development on this property.
31. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use and is part of the Krug South Addition plat that has been filed for the property plus the land to the south and southwest. This plat proposes approximately 160 residential lots plus this commercial tract. The property to the southeast is zoned “SF-20” Single-family Residential and to the northeast is zoned “RR” Rural Residential; current development to the southeast and northeast consists of farmsteads, agricultural tracts and large suburban tracts. A church, a small lake and a single-family subdivision, Chestnut Ridge, are located to the north/northwest on property zoned SF-5. Reed’s Cove, a single-family residential subdivision is located west of the creek that borders the Krug South Addition.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (urban residential) but according to the Comprehensive Plan, at least a portion is appropriate for less intensive commercial use/local commercial uses such as allowed in the NR zoning district or selected LC zoning uses that are not large in scale or accompanied by activities such as drive-through windows, overhead doors associated with vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As recommended with the additional CUP provisions, the scale and impact of the CUP with LC zoning would be mitigated by the use restrictions and site development requirements related to access management, landscaping, screening, lighting and signage.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “local commercial” at the intersection and “urban development mix” for the balance of the tract. The proposed development is in conformance with this designation except that the size of the tract (20 acres) exceeds the size shown for local commercial (approximately 6-10 acres). **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The tract has access due to its location on the 21st Street North, but currently this street is congested during peak volume hours and increased traffic from this site will aggravate this situation. No significant clusters of retail commercial activities are located at this intersection today although the northeast and southeast corners also are designated for local commercial use. Minimizing detrimental impacts to the residential neighborhood to the north (Chestnut Ridge) can be improved with additional land use and site restrictions. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. Requirements for similar landscaping and shared or similar signage would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards but the easternmost access point on 21st Street North would be right-in/right-out per the Access Management Policy. The southernmost access point on 143rd Street East lacks the full 400-foot separation (300 apart from centerline to centerline) of the Access Management Policy. However, the closest access point to the south is over 800 feet away, thus keeping the total number of access points low.
5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase significantly on 21st Street North, making it critical to limit the access to those Access Management Policy and require left-turn center lane and decel lane improvements.

DALE MILLER Planning Staff presented the staff report.

PAUL GUNZELMAN, Traffic Engineer, said the plat proposed an opening on the lot line approximately 225 feet away from the right-of-way line at the intersection. He said it also proposed another drive lined up with the existing drive on the north side of 21st Street. He said the distance between the two openings on the north side was 400 feet. He commented that the City of Wichita is working on a project for 21st Street from K-96 east to 159th Street that they are currently designing. He said the County had started the design process, but since the City annexed past 127th they have taken over the project. He said the County had designed a five-lane section with a continuous two-way turn lane; however, the City has designed intermittent raised medians to break up the continuous two-way left turn lane. He said they are proposing a median at 143rd Street back 300 feet to the west and also on the east side of the road, as well as on 127th Street. He said Access Management Regulations allow the first full movement 400 feet away from the intersection; and first right in and right out 200 feet from the intersection. He said on the north side, there is complete access control from the intersection to the church drive. He said with the median they would not be blocking anything that isn't already there. He added that the Access Management Regulations also state that issues can be evaluated on case-by-case basis. He said, however, he thought on undeveloped areas on the outskirts of the City, it was important to adhere to the Access Management guidelines and require that the first full movement drive to be 400 feet from the intersection. He concluded by saying that he was asking for the eastern most drive to be right in and right out with full a movement drive across from the church lot.

DUNLAP asked if there was access to the property from 143rd Street?

GUNZELMAN said there was a full movement drive 400 feet from the intersection on 143rd Street, plus another full movement drive at the south end of the property.

GENE RATH, MKEC Engineering commented that the applicant was present as well to respond to questions. He said he was present to discuss the traffic and access situation. He commented on the neighborhood concerns regarding traffic on 21st Street and how 21st Street has grown in leaps and bounds to Andover in the last few years. He said the Staff Report indicates 14,000 cars per day on 21st Street projected to increase to 18,000 in the future. He added that he thought there was an error on the report concerning traffic on 143rd Street and said that Transportation Staff were actually projecting 6,000-7,000 per day on 143rd Street. He said that was important

because one of the concerns from a traffic engineering standpoint was the major entrance they were requesting at the west edge of parcel 2 and the number of people turning left eastbound on 21st Street and turning north on 143rd Street. He said there will be less turning movements than 18,000 per day. He said they have reviewed the numbers with Mr. Gunzelman and he concurred that movement wouldn't be a high volume and that by allowing the major entrance at the proposed location, there would still be sufficient left turn length of 150 feet for eastbound traffic to turn north, while also allowing a short left storage bay for people going west to turn into the driveway. He said they feel it is a workable situation and added that although some of the accesses were less than the 400 foot distance recommended in the Access Management guideline, they were not that far off. He briefly reviewed the access distances.

ALDRICH asked if there was cross lot access from parcel 1, 2 and 3. **RATH** responded, "Yes". Responding to a request for clarification from **WARNER**, **RATH** indicated they are requesting "full movement", right in, right out, left in, left out.

Tape 2, Side 1

NICOTTE HEALEY, 13807 East 22nd Street North in Chestnut Ridge subdivision, which is just north of 21st Street and 143rd Street. She said she was concerned that there was adequate turn space at the entrance, because she understood there was going to be another school constructed off 143rd Street. She said they have tremendous traffic problems at 127th Street and 21st Street and there is not adequate turning into the school there. She said they don't want to have the same problem on 143rd Street that they currently have on 127th Street. She said concerning the rezoning, they held numerous community meetings to discuss the issues of the commercial property and the impact to their neighborhood. She said they were appreciative that Ritchie, who was also their developer, was willing to meet with them and discuss their concerns. She said the community was willing to support the rezoning in return for Ritchie's written offer to provide a landscaping plan to help buffer the commercial property from their neighborhood.

KEVIN MULLEN, President, Ritchie Development, referred to an architectural rendering of the area. He said they have had complaints from residents at the Chestnut Ridge subdivision that they (the residents) didn't know the adjacent area was going to be a developed commercially and why weren't they told that information when they purchased their homes. He commented that Ritchie acquired the property in question six months ago, so they did not own the property when the houses along the lake in Chestnut Ridge were being built. He commented that the property currently has an empty/abandoned house where parties take place and said Ritchie was coming into the community and trying to make something better. He said they are the single largest property owners along 21st Street and that they bought this property to develop it and try to protect the rest of their investment and the homeowners in the area. He said they have met with Planning Department Staff and have implemented their recommendations in addition to addressing some of the items that they were hearing from the homeowners in Chestnut Ridge.

MOTION: To approve the zone change and include Traffic Engineering staff's recommendations regarding right in and right out traffic on parcel #2.

ALDRICH moved, **MARNELL** seconded the motion, and it carried (12-1). **DUNLAP** – Nay.

7. **Case No.: ZON2006-49** – Hunter Health Clinic, Inc., (owner) Ruggles & Bohm, PA c/o Tom Ruggles (agent) Request Zone change from "TF-3" Two-family Residential to "GO" General Office on property described as;

Parcel 1:

Lots 6, 8, 10, 12, 14, 16, 18 and 20, on Spruce Street, TOGETHER WITH Lots 2, 4, 18, 20, and 22, on Central Avenue, all in Stites Bros Second Addition to Wichita, Kansas, Sedgwick County, Kansas, EXCEPT that part platted as Hunter Health Clinic Addition, Wichita, Sedgwick County, Kansas.

Parcel 2:

Lots 1 and 2, Hunter Health Clinic Addition, Wichita, Sedgwick County, Kansas. Generally located north of Central and west of Grove and East of Spruce.

BACKGROUND: The applicant requests a zone change from “TF-3” Two-family Residential to “GO” General Office on a 0.72-acre tract generally located north of Central and east of Spruce Street. The tract requested for rezoning currently is vacant.

The tract is part of an expanded site for a new, larger facility for the Hunter Health Clinic. The existing clinic and the other existing commercial buildings located on the north side of Central between Grove and Spruce will be removed for the new clinic; this property is zoned “LC” Limited Commercial. Vacant property along Grove will be incorporated into the site and already is zoned GO. This request would extend the northern boundary of GO zoning west of Grove to Spruce Street.

The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The abutting lot on the north of the rezoning request is a vacant lot. The property to the south of Central is the site of the Johnson Drug Store Building listed on the National Register of Historic Places. Other uses along Central include retail and office buildings and a vacant church building.

CASE HISTORY: The property is platted as Lots 6, 8, 10, 12, 14, 16, 18 and 20 on Spruce, Stites Bro’s. Second Addition, recorded June 19, 1888.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single-family residential
SOUTH:	LC	Offices, including current Hunter Health Clinic and another office building that was formerly a service station, retail, vacant church
EAST:	GO	Vacant (part of proposed clinic site)
WEST:	TF-3	Single-family residential

PUBLIC SERVICES: Central is a five-lane principal arterial and Grove is a four-lane divided urban collector. 2006 annual average daily traffic was 17,000 vehicles per day on Central west of Grove and 5,000 vehicles per day on Grove north of the Central. All normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for “urban residential” use but the adjacent property along Central as “local commercial.” The requested rezoning to GO is in conformance with the local commercial designation for the property along Central but would extend the boundary of local commercial northward from its current boundary. The property is within the Central Northeast Area Plan. The Area Plan shows the same boundary for local commercial along Central. The expanded Hunter Health Clinic facility would support the Central Northeast Area Plan initiative to enhance neighborhood shopping (Initiative 5) and retain and attract new businesses and jobs (Initiative 6).

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends the zone change be APPROVED subject to re-platting within one year.

This recommendation is based on the following findings.

1. **The zoning, uses and character of the neighborhood:** The tract is part of an expanded site for a new, larger facility for the Hunter Health Clinic. The existing clinic and the other existing commercial buildings located on the north side of Central between Grove and Spruce will be removed for the new clinic; this property is zoned “LC” Limited Commercial. Vacant property along Grove will be incorporated into the site and already is zoned GO. This request would extend the northern boundary of GO zoning west of Grove to Spruce Street. The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The abutting lot on the north of the rezoning request is a vacant lot. The property to the south of Central is the site of the Johnson Drug Store Building listed on the National Register of Historic Places. Other uses along Central include retail and office buildings and a vacant church building.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property to the east and south already is zoned GO or LC. In the past, the rezoning tract was occupied by small, single-family houses, but it is unlikely that any single-family or duplex development would reoccur on the site if it were retained in TF-3 zoning; more likely it would remain as a vacant lot.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main effect would be from the location of an office across Spruce Street from the existing residences. The office use category is less intensive than commercial use associated with LC zoning, and is used as a buffer between residential and more intensive commercial uses. Landscaping and screening of the structure and site improvements (parking lot and dumpsters, etc) will be required to soften the impact on the residences.
4. The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant. If the property remains zoned TF-3, the applicant would be unable to proceed on replacing the Hunter Health Clinic with the better facility at this location.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for "urban residential" use but the adjacent property along Central as "local commercial." The requested rezoning to GO is in conformance with the local commercial designation for the property along Central but would extend the boundary of local commercial northward from its current boundary. The property is within the Central Northeast Area Plan. The Area Plan shows the same boundary for local commercial along Central. The expanded Hunter Health Clinic facility would support the Central Northeast Area Plan initiative to enhance neighborhood shopping (Initiative 5) and retain and attract new businesses and jobs (Initiative 6).
6. Impact of the proposed development on community facilities: The increase in traffic from the expanded clinic should not be a significant impact over the existing volume of traffic on Central and Grove.

Dale Miller Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

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8. **Case No.: ZON2006-51** – Russell Investments, LLC, c/o Jay Russell, Baughman Company, P.A., c/o Russ Ewy Request County zone change from "SF-20" Single-family Residential to "LI" Limited Industrial on property described as;

A tract of land in the NE 1/4 of Sec. 33, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at a point on the north line of Block A, Ridge Port Commercial Park, Wichita, Sedgwick County, Kansas, said point being 30.00 feet west of the NW corner of Lot 4, in said Block A; thence S89degrees 31'48"W along said north line, 246.99 feet to the SW corner of the E ? of said NE ?; thence N00 degrees 01'42"W along the west line of said E ?, 514.81 feet; thence S19 degrees 32'21"E, 301.38 feet to the P.C. of a curve to the left; thence easterly along said curve, having a central angle of 61 degrees 39'29" and a radius of 96.00 feet, an arc distance of 103.31 feet, (having a chord length of 98.40 feet bearing S50 degrees 22'06"E) to the P.T. of said curve; thence S81 degrees 11'51"E, 134.58 feet; thence S34 degrees 34'09"W, 109.65 feet; thence S00 degrees 08'04"W, parallel with the extended west line of said Lot 4, 55.11 feet to the point of beginning. Generally located west of Ridge Road and approximately 200 feet northwest of Northwind (to be annexed 11-14-06)

BACKGROUND: The applicant requests a zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial on a 1.50-acre platted tract located midway between 29th Street North and 37th Street North, west of Ridge Road. The subject property was developed as a sand pit, but is now currently undeveloped. The applicant proposes the zone change to allow expansion of the undeveloped existing "LI" zoning abutting the subject's property to the south and west sides. This case was published as a "SF-20" to "LI" request, but the site is scheduled to be annexed on November 14, 2006.

The surrounding area is characterize by The Big Slough North drainage, sandpits and retention ponds/drainage reserves, large undeveloped industrial and single-family residential tracts, commercial and office developments, medical and dental services, mixed with the predominate single-family residential developments and small duplex and multi-family residential development. Nonresidential construction is a recent development, with building

beginning in 2000 and continuing to the present. Residential construction appears to have begun in the 1990s and continues to the present. There has not been any industrial development in the area. Railroad right-of-way (ROW) runs northwest to southeast through the area. The undeveloped industrial portion of the area abuts and runs parallel to the railroad ROW.

The large tract abutting the north side of the subject property is zoned "SF-5" and was a large sandpit. The subject site is a part of this tract. An isolated section of the "SF-5" zoned tract, across the sand pit and a drainage channel northeast of the subject site, is also a part of the above-mentioned large tract. The properties south and east of the subject site are zoned "LI". There is currently no development occurring on this eastern property. Property abutting the north side of the subject property is zoned "SF-5" and the property directly west of the subject site is zoned "RR," with both sites not currently developed.

CASE HISTORY: The property is platted as Lot 8, Pier 37 Addition, recorded in 2004. The subject property is to be annexed into the City of Wichita on Nov. 14, 2006. This will change the current zoning of the property from "SF-20" to "SF-5." This application is for the rezone of the "SF-5" to "LI."

A Conditional Use, CU-293, for the subject site and the larger area around it was approved by the Board of County Commissioners (BOCC) August 8, 1986. The subject site was zoned "R-1" Urban Residential at that time. The "R-1" zoning district became the "SF-20" and "SF-10" Single-family zoning districts with the zoning district conversions in 1996. The Board of County Commissioners approved a zone change, for the subject site and the larger area around it, from "SF-20" to "B" Multi-family Residential, SCZ-0739, with a Community Unit Plan overlay, CUP DP-245, June 7, 2000. A condition of approval for the zone change and the CUP was the platting of the property. SCZ-0739 and CUP DP-245 were denied and closed because the property was never platted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Vacant Land
SOUTH:	"LI"	Vacant Land
EAST:	"LI"	Vacant Land
WEST:	"RR"	Vacant Land

PUBLIC SERVICES: The site has no direct access to Ridge Road, a four-lane arterial street with current traffic volumes of approximately 12,500 vehicles per day at this location. The 2030 Transportation Plan estimates traffic volumes will increase to approximately 18,000 vehicles per day on Ridge Road. The impact of the proposed Northwest Bypass has not been calculated in 2030 traffic volumes. The subject property has access to public sewer service. Public water will have to be extended to the subject site.

CONFORMANCE TO PLANS/POLICIES: The purpose of the LI limited industrial district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The LI district is generally compatible with the "Industrial" designation of the Wichita-Sedgwick County Comprehensive Plan. It is intended for application primarily within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "urban service areas."

The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Urban Development Mix" within the Wichita 2030 Urban Service Area. Urban Development Mix, as described in the Comprehensive Plan encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. In certain areas, especially those with proximity to the future Northwest Bypass, there is the possibility that future uses may include Regional Commercial and Employment/Industry Center.

The Wichita 2030 Urban Service Area identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon Wichita population growth projections and current market trends. This is the area in which City limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

Strategies for industrial uses in the 1999 Comprehensive Plan Update (IV.A1 & IV.A3) include protecting areas identified as industrial in the Comprehensive Plan from encroachment or expansion of residential land uses, by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created, and to channel traffic generated by industrial uses to the closest major thoroughfare with minimum impact upon local residential streets.

The subject site's location between the south end of the large sand pit and the large undeveloped "LI" zoned tract on its south side make it less attractive to develop as multi-family residential or as single-family residential with its current zoning of "SF-20". The proposed "LI" zoning matches up with previously mentioned undeveloped "LI" zoning abutting the subject site's south side. The "LI" zoning south of the subject site was established while the site was in the county and its located at the mid-mile point along Ridge Road, does give the area an unusual zoning pattern. The existing "LI" zoned tract's proximity to the railroad ROW, a four lane arterial and another large "LI" tract (south and east across Ridge Road) meets the intent of the Industrial Locational Guidelines of the Comprehensive Plan. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial areas be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses. Also, industrial traffic should not feed directly into local streets in residential areas, and industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The residential development in the area has occurred after most of the area was annexed into the City and has grown around the existing "LI" zoning.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by industrial and commercial uses. Properties along West Northwind Street and West 33rd Street North are developed or to be developed with commercial warehousing, and wholesale and business service uses. This area has been identified as appropriate for industrial and commercial uses in City-County land use guides for over 40 years, and the properties along North Ridge Road, near K-96, have slowly been annexed into the city and developed into commercial and industrial uses. There are still large undeveloped tracts of "SF-20" and "LI" zoned properties in the area. Drainage features are prominent. The proposed "LI" Limited Industrial zoning is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" and is currently part of a larger undeveloped "SF-5" zoned tract that contains an old sandpit. Given the guidance provided by the land use guides, this area should be developed with industrial and commercial uses, and due to its location next to this large sand pit, a drainage channel (all of which have limited its size and given it a long configuration) and its abutting the undeveloped industrial zoning to its south, it unlikely that the subject property will develop as single-family residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning this recently annexed property will have minimal negative impacts on the area and will likely improve the property with the development of this property and the regulations controlling access, landscaping and screening. Also, the surrounding properties are zoned and developed similar to the subject property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The subject site's location between the south end of the large sand pit and the large undeveloped "LI" zoned tract on its south side make it less attractive to develop as multi-family residential or as single-family residential with its current zoning of "SF-20." The proposed "LI" zoning matches up with previously mentioned undeveloped "LI" zoning abutting the subject site's south side. The "LI" zoning south of the subject site was established while the site was in the county and its located at the mid-mile point along Ridge Road, does give the area an unusual zoning pattern. The existing "LI" zoned tract's proximity to the railroad ROW, a four lane arterial and another large "LI" tract (south and east across Ridge Road) meets the intent of the Industrial Locational Guidelines of the Comprehensive Plan. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial areas be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses. Also, industrial traffic should not feed directly into local streets in residential areas, and industrial uses should be generally located away

from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The residential development in the area has occurred after most of the area (the exception being this remnant of Sedgwick County of which the subject site is part of) was annexed into the City and has grown around the existing "LI" zoning.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as long as the recommend dedications of additional right-of-way, access control, and drainage plans are required.

DERRICK SLOCUM Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

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9. **Case No.: CON2006-50** – Wichita Airport Authority c/o John Oswald (owner), City of Wichita, Water & Sewer Department (applicant), Poe & Associates, Inc., c/o Bill Fox Request Conditional Use for a major utility (wastewater treatment) on property zoned "LI" Limited Industrial on property described as;

Lot 1, Block 1, Mid-Continent Airport 6th Addition, Sedgwick County, Kansas. Generally located midway between Ridge and Tyler Roads, north of K-42 and east of the Cowskin Creek

BACKGROUND: The City of Wichita, Water & Sewer Department, is seeking a Conditional Use to permit the construction of a "major utility." The major utility will be a wastewater treatment plant. The proposed wastewater treatment plant (plant) is defined as a major utility, per Art.II, Sec.II-B, #13h of the Unified Zoning Code (UZC). A major utility is a Conditional Use in all zoning districts.

The applicant has stated that the proposed plant will be completely enclosed in a 130-foot (x) 300-foot hanger like building, located on a 7.49-acre site located north of K-42 highway, on property owned by the Wichita Airport Authority. The Airport Authority has requested that the facility resemble its abutting maintenance facilities. The proposed plant will treat over 3-million gallons of flow from the Cowskin Pump Station (located at Tyler Road and south of Pawnee Prairie Park), which is currently going to Wastewater Treatment Plant #2, located at 57th Street South and Hydraulic Avenue. The proposed plant will also be positioned to provide wastewater treatment for the anticipate growth of Wichita into the areas southwest of the site. Odors from the plant will be controlled by the design (completely enclosed), materials and the filtering/venting system of building, which will also allow sewer treatment staff to work within this enclosed plant. Sewer treatment staff will be present approximately 8-man hours per day and available for maintenance and repair 24-hours per day 7-days a week. Materials for the plant's building as well as some design details of the site will have to be as recommended by the FAA, therefore the site plan has not been finalized. A revised site plan must be submitted that include a paved parking area, paved access onto K-42, any communication antennae, additional landscaping, specifically evergreens between it and K-42 highway, a minimum of a 6-foot security fence around the facility, outside lighting, setbacks, easements, state that all utilities will be underground, state the square footage of the enclosed facility, state that the facility is completely enclosed, and dimension control. The site is located within the Airport Hazard area and appears to abut the Cowskin Creek 100-year flood boundary

CASE HISTORY: The site is in Lot 1, Block 1, Mid-Continent Airport 6th Addition, which was recorded with the Register of Deeds February 9, 2001.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Airport land, airport runways
SOUTH:	"SF-5", "LI"	Undeveloped land, small single-family residential subdivision
EAST:	"LI"	Airport land & facilities, Cessna Aircraft facilities
WEST:	"TF-3"	Airport land, Cowskin Creek, airport runway

PUBLIC SERVICES: The site has access to K-42, a four-lane state highway. There are approximately 11,694 ATD along this section of K-42. City water and sewer would have to be extended to the site, while all other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” identifies this area as “Major Utility/Transportation”. This category encompasses utility and transportation facilities and includes a range of uses such as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities. The proposed wastewater treatment plant is a public facility classified as a major utility. Major utilities are needed to provide the general public with electricity, gas, heat, steam, communication, rail, transportation, water, sewage collection and other similar services. The proposed wastewater treatment plant will provide more efficient service, replacing the long distance transfer of waste from the Cowskin Pump Station (located at Tyler Road and south of Pawnee Prairie Park) to the Hydraulic and 57th Street South Wastewater Treatment Plant #2. The proposed plant will also be designed to support the anticipated growth of Wichita into the area southwest of the site. A major utility is permitted as a Conditional Use in all zoning districts.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to a Lot Split within a year if the site is leased by the City for 50-years or more or if the City buys the site and the following Conditional Use restrictions:

- A. The applicant shall obtain all permits necessary to construct the wastewater treatment plant, including compliance with the FAA, prior to the operation commencing.
- B. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations, including any required FAA regulations, state and local environmental regulations in reference to dumping of the treated water into Cowskin Creek, and a drainage plan approved by the Storm Water Engineer.
- C. A revised site plan, with landscaping must be submitted and approved by the Planning Director prior to operations beginning. The revised site plan will also be reviewed and approved by the Wichita Airport Authority, in reference to compliance with the FAA regulations. The site plan will include a paved parking area, paved access onto K-42, any communication antennae (stated the height as allowed by the FAA), additional landscaping, specifically evergreens between it and K-42 highway, a minimum of a 6-foot security fence around the facility, outside lighting, setbacks, easements, state that all utilities will be underground, state the square footage of the enclosed facility, state that the facility is completely enclosed, and dimension control
- D. The wastewater treatment facility will be completely enclosed, designed and built to ensure the most efficient odor control.
- E. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area can be characterized as an industrial and a major transportation hub with the City’s major airport facilities (Mid-continent) and runways and the Cessna – Wallace aircraft manufacturing facility dominating the area. Both uses are on property zoned “LI” Limited Industrial. There are undeveloped “LI” and “SF-5” Single-family Residential properties south and west of the site. Development in the area would have to consider the FAA regulations that govern the airport. The Cowskin Creek abuts the west side of the site. The nearest single-family residential development is just over a ½-mile, across K-42, southwest from the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used by the Wichita Airport Authority. The proposed plant will ensure more a more efficient treatment of existing wastewater in the area and support future growth in the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on the predominate industrial – transportation facilities in the area should be minimized by the conditions of the Conditional Use, which should limit odor and other activity from adversely impacting these facilities.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide identifies this area as “Major Utility/Transportation.” The Water and Sewer Department has identified this site a more efficient site for providing service to the area, than its current operation of pumping wastewater to Waste Water Treatment Plan #2, located at 57th Street South and Hydraulic Avenue. The proposed plant will also provide service for the anticipated growth southwest of the site.

5. Impact of the proposed development on community facilities: This wastewater treatment plant will provide more efficient service to the area. Water and Sewer has stated that the entirely enclosed facility will be designed and constructed to ensure an effective method of odor control and to meet FAA standards, necessitated by its location on Airport land.

BILL LONGNECKER Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

BILL LONGNECKER Planning Staff requested that ITEM #9 CON2006-50, be reconsidered.

MOTION: To reconsider item #9, per staff's request.

BISHOP moved, **ALDRICH** seconded the motion, and it carried (12-0).

LONGNECKER referred to page 3 of the staff report, Condition C – "... site plan will also be reviewed and approved by the Wichita Airport Authority..." He said based on direction provided by the Law Department, they would like to change the language to read "... reviewed and approved by the appropriate agencies..."

MOTION: To approve revised language suggested by staff.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (12-0).

10. **Case No.: CON2006-52** - Munir A. Razzaq Request Conditional Use for outdoor vehicle and equipment sales on property zoned "LC" Limited Commercial on property described as;

Lots 28, 30, 32 and 34, Block 3, Wilson's Addition, Wichita, Sedgwick County, Kansas. Generally located two blocks south of Harry Street on the northeast corner of Broadway and Funston Avenues.

BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on Lots 28, 30, 32 & 34, Block 3, Wilson's Addition. The site is zoned "LC" Limited Commercial and is vacant. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" zoning district.

The site is located on the northeast corner of Broadway and Funston Avenues. The site currently has a drive onto Broadway and a drive onto Funston. The concept plan the applicant has provided proposes a single building (no square footage given for building), some landscaping located between the sales lot and the sidewalk along the Broadway frontage, one drive onto Broadway, two drives onto Funston, and as many as 21 unidentified parking spaces/display slots. The concept plans does not provide dimension control, lighting, a landscape buffer, landscaping along Funston, screening, signs, employee and customer parking, setbacks, easements, or right-of-way (ROW). Any variance from Article III, Section III-D, 6.x of the Unified Zoning Code (UZY) would require a waiver approved by the Wichita City Council (WCC). Any variance from the landscaping ordinance would require a waiver by the Planning Director. Compatibility setbacks would apply to the east side of the site, where it is adjacent to "TF-3" Duplex Residential zoning. Current Subdivision standards for half-street ROW for Broadway, an arterial, is 60-feet, the site has 35-feet of half-street Broadway ROW.

Development along this section of Broadway is a mix of older, pre-1930, single-family residences, with some of those single-family residences having been converted into two-family or multi-family residential uses, and local commercial types of uses. The zoning along this section of the Broadway corridor is "LC" Limited Commercial, which has allowed the multi-family residential and commercial development to gradually displace the older single-family residential development on the corridor. Commercial uses include the most recently constructed Walgreens (Harry Street and Broadway, 2002), a bank (1992), a Dillon grocery store, small retail either free standing or strip, some small office, free standing restaurants, motels without restaurants, and small car sales lots both with and without garages. This section of Broadway (Harry to Funston) has most recently had Conditional Uses for car sales lots approved southwest (across the intersection) of the subject site, CON2002-54, and expansion of another car sales lot, CON2002-43 (attached to CON2000-10), located two-blocks north of the subject site. There are two other

car sales lots CON2004-30 and CU-488 located on the same block and on the same side (east) of Broadway as the subject site.

Properties east of the site, across the 20-foot wide alley, are zoned “TF-3” Duplex Residential and are developed primarily as single-family residential and include a brick duplex northeast of the site. Properties west of the site, across Broadway, are zoned “LC”, with development including the previously mentioned bank and single-family residential structures with either single-family or multi-family residences. Properties north of the site are zoned “LC” and are developed as an abutting and adjacent single-family residences, a duplex and a car lot (CON2004-30). Properties south of the site, across Funston, are zoned “LC” and are developed as single-family residential and a car sales lot (CON2002-54).

CASE HISTORY: The Wilson’s Addition was recorded with the Register of Deeds April 9, 1887. Staff has received a protest against the proposed car sales lot.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Single-family residences, Car sales lot
SOUTH:	“LC”	Single-family residences, Car sales lot
EAST:	“TF-3”	Single-family residences, duplex
WEST:	“LC”	Bank, single-family residences, multi-family residential

PUBLIC SERVICES: This site has access onto Broadway Avenue, a four-lane arterial with current traffic volumes of approximately 11,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Broadway will remain approximately 11,000 vehicles per day. This site has also has access to Funston Avenue, a local street. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “Local Commercial” development. “Local Commercial” development does not have a significant regional market draw. Typical uses in this category include medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal services and on a limited basis mini-storage warehouses and small scale light manufacturing. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommends that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

The site is located in the adopted “South Central Neighborhood Plan.” The Plan was approved by the MAPC April 20, 2006, by the BoCC May 10, 2006 as Resolution #72-06 and by the WCC May 16, 2006 as Ordinance #47-033. The Plan covers approximately 1.8-square miles, with its boundaries being located between Kellogg Avenue on the north, the Arkansas River on the south and west, and Washington Avenue, a railroad ROW, and the Arkansas River on the east. The Plan has noted that there is a lack of diversity in business development along Broadway, with car lots, bars and motels being common. The Plan states that these businesses do not provide direct goods and services to the neighborhood, as having had a significant and detrimental impact on Broadway and a negative impact on the residential areas. The Plan discourages an increase of car lots, bars and motels. A stated goal of the plan is to bring more variety of business to the area, including the development of vacant lots for something other than car sales lots, motels and bars.

RECOMMENDATION: This is the first Conditional Use request for a car sales lot along this section of Broadway since the adoption of the “South Central Neighborhood Plan” in May of 2006. A stated goal of the Plan is to discourage the increase and reduce the number of car sales lots, bars and motels along Broadway. Prior to the publication of the public hearing date Staff had advised the applicant of the Plan’s goal of no increase in the number of car lots along on Broadway. Based upon information available prior to the public hearing, planning staff recommends that the request be DENIED.

The staff’s recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Development along this section of Broadway is a mix of older single-family residences, older multi-family residential, a bank (a newer

development), a Walgreen (the newest development), a Dillon grocery store, small retail either free standing or strip, some small office, free standing restaurants, motels without restaurants, and small car sales lots both with and without garages. The site is part of an unbroken approximately 7/8-mile strip of "LC" Limited Commercial zoning on both sides of Broadway. There is "TF-3" Duplex Residential zoning and mostly single-family residences/neighborhoods beginning the next blocks east and west of Broadway.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial and is vacant. The property could be developed as the zoning allows by right.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approving a Conditional Use for a car sales lot at this site would not be out of character with development in the area that occurred prior to the May 2006 adoption of the "South Central Neighborhood Plan." A specific goal of the Plan is to discourage an increase of car sales lots, bars and motels in the area, characterizing them as having significant and detrimental impact on Broadway and a negative impact on the adjacent residential neighborhood. Approval of the Conditional Use request would be contrary to the Plan.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The "Wichita Functional Land Use Guide of the Comprehensive Plan" identifies the general location as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Broadway, an arterial. The "South Central Neighborhood Plan" encourages more diversity of businesses along Broadway, which would provide direct services and goods to the neighborhood. The Plan does not recognize car sales lots as providing direct goods and services to the neighborhood. The Plan calls out car sales lots, bars and motels as having had a significant and detrimental impact on the Plan's area. Approval of the Conditional Use request would be contrary to the Plan and the goals of the neighborhood.
5. Impact of the proposed development on community facilities: The use of this property as allowed by right by the "LC" Limited Commercial zoning district should have limited impact on community facilities.

However, if the MAPC finds the Conditional Use request to be appropriate, Staff recommends the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
2. The applicant shall dedicate by separate instrument a contingent dedication of 25 additional feet of street right-of-way along the property's Broadway frontage within 90 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The applicant shall provide dedication of access control as approved by the City Traffic Engineer within 90 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
4. If needed the applicant shall provide a guarantee for closure of the existing drives onto Broadway (1) and Funston (1) Avenues in a form suitable to the City Traffic Engineer within 90 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
5. Parking spaces for employees and customers and internal circulation on the site shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless an employee drives the vehicle. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless

additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.

6. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
7. No pole lighting shall be located in the rear yard setback, shall be no taller than 14-feet, and shall be directed onto the site only. No building lights shall be placed on the east, south of north sides where adjacent to residential zoning or residential development.
8. A revised landscape plan shall be submitted showing a landscaped street yard and landscape buffer, which shall be provided and maintained on the property as approved by the Planning Director.
9. A revised site plan, showing dimension control, required screening, lighting, signage, parking, display area, the office/sales building, a possible garage, and reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within 90 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
10. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code shall be met. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within six (6) months of approval of the Conditional Use by the MAPC or governing body, as applicable.
11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

BILL LONGNECKER Planning Staff presented the staff report.

LONGNECKER reported that this site was within the South Central Neighborhood Plan, which was adopted by the MAPC, the County Commission, and the City Council in May of this year. He stated that a goal of the plan was that there be no increase of bars, motels and car sale lots within the plan's area. He also noted that this was the first car sales lot request in the area since the adoption of the plan and that although there were existing car sales lots in the immediate area, Staff was recommended denial, based on the plan. He noted that DAB III, at their meeting last night, voted unanimously to deny the request.

ANDERSON asked if the applicant or an agent was present to speak for the car sales lot.

LONGNECKER replied that it did not appear that the applicant or an agent was present. He also stated that the applicant was not present at last night's DAB meeting.

DUNLAP asked if a car lot operations cease, does that cancel the Condition Use permit?

LONGNECKER answered that a Conditional Use stays with the land, even if the business, which it permitted, were to go out of business. However, if the requirements of the Conditional Use permit are not maintained, the Zoning Administrator, with the concurrence of the Planning Director could declare the Conditional Use null and void.

HENTZEN – departed meeting.

DALE CHURCHMAN, 1357 South Broadway, stated that he was a member of the Implementation Committee for the South Central Plan. He said when they surveyed the neighborhood concerning improving Broadway; he said the concerns were reducing the number of used car lots, motels, and bars. He said used car lots in other Cities are usually along major highways, and since Broadway was once a major highway from Canada to Mexico (Highway 81) that is why there are so many motels and car lots. He said there are 20 car lots between Kellogg and Pawnee, which was more than enough. He said one of the problems with used car lots was that if they are successful, they tend to grow. He said they are more interested in providing services to the neighborhood such as medical, dental, pharmacy and drug stores, etc. He said they want to focus on improving the mix of businesses in the neighborhood.

VICKI CHURCHMAN, 1357 South Broadway, said she was secretary for the Implementation Committee. She said one of the issues in the revitalization plan was the poor drainage in the area. She said there was one site along Mount Vernon that constantly floods. She said because of all the car lots, there is a great deal of concrete and therefore a great deal of run-off. She said they supported denial of the application. She concluded by saying that if there were a way to terminate the conditional use permit when one of the businesses closed, that would be wonderful.

MOTION: To approve staff recommendation to deny.

HILLMAN moved, **BISHOP** seconded the motion, and it carried (12-0).

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11. **Case No.: CON2006-53** – Richard Christian, Jay Hatfield Chevrolet, c/o Jay Hatfield, Baughman Company, PA, c/o Russ Ewy Request Conditional Use for vehicle and equipment sales outdoor on property zoned “LC” Limited Commercial on property described as;

Lot 79 and the East 1/2 of Lot 78, Linwood Acres Addition, Sedgwick County, Kansas, except that part taken for road. Generally located north of Kellogg and west of Zelta (11922 E. Kellogg).

BACKGROUND: The applicant is requesting a conditional use to allow outdoor vehicle and equipment sales on Lot 79 and the East 1/2 of Lot 78, Linwood Acres Addition, zoned LC Limited Commercial. The site is located north and west of the intersection of East Kellogg and South Zelta Street (11922 E. Kellogg Avenue) and is currently developed with a vacant building, which was used for archery and angler supplies. The applicant proposes to use this site for outdoor vehicle and equipment sales. Per the Unified Zoning Code, outdoor vehicle and equipment sales may be permitted as a conditional use in the LC zoning district.

The development north of the site is a mobile home park and is zoned LC Limited Commercial. The property east of the site is currently automotive repair and accessory uses on property zoned GC General Commercial. The property to the west is a vacant lot and is zoned GC General Commercial. The properties to the south, across Kellogg Avenue are typical fast food establishments and are zoned GC General Commercial.

The applicant’s site plan shows the existing structure, originally built in 1993, with two existing drives onto East Kellogg Drive. The site plan illustrates that the site is large enough to accommodate requested vehicle display area and enough parking to satisfy Unified Zoning Code requirements.

CASE HISTORY: The site was originally platted as a portion of Lots 78 and 79 of Linwood Acres Addition on October 7, 1929.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Mobile Home Park
SOUTH:	GC	Strip retail; fast food establishments
EAST:	GC	Automotive repair and accessories
WEST:	GC	Vacant Lot

PUBLIC SERVICES: The subject property has access to Kellogg Drive, a frontage road for Kellogg Avenue, a four-lane freeway, with a traffic count of approximately 31,000 vehicles daily. There is also one access point onto Zelta Street, which is a local residential street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for regional commercial types of use. This category of use encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. Major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. A strategy for commercial and offices in the 1999 Comprehensive Update (III.B5.) stated confining highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar concentrations of uses (e.g. portions of Kellogg, Broadway, the CBD fringe).

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has access onto Kellogg Drive, which serves Kellogg Avenue, a four-lane freeway. The conditions attached to a Conditional Use can address site design issues. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED subject to the following conditions:

1. The applicant shall comply with all provisions of Section III-D.6.x. of the Unified Zoning Code regarding supplementary use regulations of outdoor vehicle sales in the LC zoning district, and the site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall install and maintain landscaping in accordance with a landscape plan submitted with the revised site plan. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits or sales of vehicles.
3. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use.
4. All vehicles associated with the car sales lot shall be located on the south and the southwest sides of the existing structure and shall be located entirely within the south 60 feet and southwest 45 of feet Lot 79 Linwood Acres Addition. The site shall be limited to the display of no more than twelve vehicles for sale at any given time.
5. All improvements shall be completed within one year of the approval of the conditional use by the MAPC or the City Council. No vehicle sales shall be allowed until all permits have been acquired and all improvements to the site have been made.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the corridor along this section of East Kellogg Avenue is predominately GC zoned regional retail uses along both sides of East Kellogg Avenue. There are other car dealerships in the immediate area.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC Limited Commercial and could be developed with a wide range of uses permitted by right. The property is suitable for the commercial uses to which it has been restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Vehicle sales on a site this size when developed with the conditional use will have minimal negative impacts on the area and will likely improve the property, given the recommendation of access control, landscaping, screening, etc.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. A conditional use for a car sales lot on this site meets the commercial locational criteria, an auto-related use being located along segments of Kellogg Avenue. There is no adopted neighborhood plan that

would specifically discourage a car sales lot on this site. The conditional use conditions do represent an opportunity for encouraging investment and upgrading the property while allowing the applicant the opportunity to expand his business opportunities.

5. **Impact on Community Facilities:** All public facilities are available. Existing road facilities are adequate. Additional access controls will be an improvement to the area.

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12. **Case No.: CUP2006-44** – Taft Business Center LLC c/o Brad Seville (owner); Trimark Signworks c/o Byron West (agent) Request Amendment to DP-151 to allow three-monument style signs to be placed on Parcel 3A on property described as;

Lot 2, EXCEPT the West 162.09 feet thereof, AND Lots 3 and 4, The Dugan Centre 2nd Addition, an addition to Wichita, Sedgwick County, Kansas. Generally located south of Taft and east of Ridge Road

BACKGROUND: The applicant requests Amendment #5 for Parcel 3A of DP-151 Dugan Centre Commercial Community Unit Plan to change the signage provisions for this parcel. The applicant wishes to have three monument style signs on this parcel, where no signs are currently permitted, for retail strip-type commercial development.

The subject property is located south of Taft, between Dugan and Ridge. North of the site is the SF-5 zoned Westerlea Village Addition residential neighborhood, and south of Taft is the GC zoned DP-151 and associated commercial development.

DP-151 General Provisions 3.c. and 3.d. state:

Signs shall not exceed 20 feet in height on Parcels 1, 3A, 3C, and 4, except that one sign shall be permitted at a height not to exceed 40 feet (per Amendment #4 approved 02/05/04).

Parcels 1, 3A, and 3C shall be limited to 2 monument-type freestanding signs along the Taft street frontage. Parcel 4 shall be limited to 1 monument-type sign along the Taft street frontage.

Parcel 3C was split off from Parcel 3A via a recent administrative adjustment involving the current applicant. Parcel 1 constructed a 40-foot tall sign for a department store, and Parcel 3C constructed a 10-foot tall monument sign for a restaurant. As these two signs now exist, no additional signage rights under the CUP exist for the applicant on Parcel 3A. The applicant desires more signage for Parcel 3A and therefore filed this CUP amendment for three monument signs. The applicant has not submitted a sign elevation or indicated a sign size. The application area is currently developed with two of four planned strip commercial buildings, which are 58 feet south of Taft. The buildings are authorized lit building signage in accordance with the Sign Code.

The subject site is part of a CUP with many changes through amendments and adjustments. The CUP was originally designed to protect the Westerlea neighborhood from incompatible commercial development; this was originally achieved through a 100-foot building setback from Taft. Amendment #3 in 2003 reduced the building setback from 100 feet to the current building setback of 35-feet. This amendment was done with provisions for a 20-foot landscape buffer along Taft, and sign limitations to two 20-foot tall monument signs on Parcels 1 and 3A. A subsequent adjustment reduced the landscape strip to 10-feet with provisions for specific plantings. Amendment #4 in 2004 allowed the sign on Parcel 1 to increase in height to 40 feet. The Westerlea neighborhood has been involved in all public hearings regarding this CUP; they have generally opposed an increase in signage visible from their neighborhood.

CASE HISTORY: The property was platted as The Dugan Centre Second Addition, recorded on July 13, 1993. DP-151 The Dugan Centre C.U.P. was approved originally in 1986. Parcel 3A was created from Parcel 3 as an adjustment dated November 19, 1992. Parcel 3C was created from Parcel 3A as an adjustment dated May 9, 2006.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”	Single-family residential
SOUTH:	“GC”	Commercial
EAST:	“GC”	Vacant, commercial
WEST:	“GC”	Commercial

PUBLIC SERVICES: Parcel 3A has access onto Taft, a four-lane collector street with a daily traffic count of 10,823. No streets enter Taft from the Westerlea Addition. The connections between the residential streets and Taft have been blocked off to prevent commercial traffic, generated south of Taft, from cutting through the residential neighborhood north of Taft.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” identifies this area as appropriate for “Regional Commercial” development. The Comprehensive Plan *Commercial Objective III.B* encourages commercial areas to “minimize detrimental impacts to other adjacent land uses.” The *Commercial Locational Guideline #3* of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in general conformance with the recommendations of the Comprehensive Plan. The proposed amendment would weaken conformance with these strategies by allowing increased signage and therefore lighting near the residential area.

RECOMMENDATION: Past amendments to DP-151 were designed to reduce impacts on the Westerlea Addition. The 100-foot setback was designed to keep commercial activity from being too close. The amendment reducing that setback to 35 feet was intended to mitigate negative effects through increased landscaping and limited signage. The limited signage was increased in height, and the limitation of two signs in this area has been used up. To significantly increase signage now would reduce the effect of previous mitigations. Taft is a collector street, not an arterial with higher traffic volumes, a fact that was considered in the original sign limitations. Existing lit building signage on this site is visible to drivers on Taft.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be **DENIED.**

Staff would note that the commercial strip development on the site is consistent with neighborhood retail type development. If signage were to increase, staff would recommend limitations to the number, size and height, consistent with previous limitations on the north side of this CUP, intended to protect the adjacent neighborhood. Specifically, residential fences are typically 6 feet in height. More signage than originally approved on the north side of this CUP should be short enough to be partially mitigated by residential fencing.

Therefore, should the Planning Commission find a CUP Amendment to increase signage appropriate, staff recommends that Amendment #5 to DP-151 be approved subject to the following conditions:

1. General Provision #3.c. shall be eliminated.
2. General Provision #3.d. shall be amended to read: “Parcel 1 shall be limited to one monument sign limited to 40-feet in height. Parcel 3C shall be limited to one monument sign limited to 144 square feet of gross surface area, and limited to 10-feet in height. Parcel 3A shall be limited to one monument sign, limited to 64 square feet of gross surface area, limited to 8 feet in height, and limited to indirect or white backlighting only.
3. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The subject tract is positioned between two distinctively different areas, and serves as the buffer zone. The area to the north is zoned “SF-5” Single-family residential as the Westerlea Village Addition. The area to the south is zoned “GC” General Commercial and developed with large-scale big box commercial uses.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is suitable for continued use as approved by DP-151. The existing retail buildings on this site have permitted building signage visible from Taft.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An increase in signage on this site will subject residential neighbors to more signage and light than what was approved under numerous previous amendments to this CUP.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” identifies this area as appropriate for “Regional Commercial” development. The Comprehensive Plan *Commercial Objective III.B* encourages commercial areas to “minimize

detrimental impacts to other adjacent land uses". The *Commercial Locational Guideline #3* of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in general conformance with the recommendations of the Comprehensive Plan. The proposed amendment would weaken conformance with these strategies by allowing increased signage and therefore lighting near the residential area.

5. Impact of the proposed development on community facilities: The requested amendment should have no impact on community facilities.

JESS MCNEELY, Planning Staff presented the staff report.

MCNEELY reported that the sign agent for the applicant requested a deferral yesterday so they could meet with neighbors who where opposed to the signage; however, since the case has been advertised and public were present; he suggested the MAPC hear the case. He briefly reviewed the amendment, which was for 3 monument style signs on parcel 3A and stated that the applicant had no signage rights remaining.

Responding to a question from **ALDRICH** concerning yard signs and enforcement responsibility, **MCNEELY** said enforcement rested with the Office of Central Inspection.

Responding to a question from **DUNLAP** concerning sign size, **MCNEELY** reported that the signs being requested were 20 feet in height.

TIM AUSTIN, Poe & Associates reiterated that they requested the deferral to meet with the neighborhood and businesses and take a comprehensive look at the buildings.

BETTY ROARK, 440 South Howell said the neighborhood has made compromises all along the way with this development. She said originally most of businesses were to face Kellogg with their signs, lights and so forth. She said now the neighbors have come down to the fact that they have retail buildings right across the street from them with a 35 foot building set back and back-lit lighted wall signs that are very visible from Taft. She said anyone driving along Taft has no problem telling what is in the building. She said now they are being asked to compromise some more and allow lighted signs out at the street. She said 3 more lighted monument signs were just way too much and not really necessary. She said the buildings are way to close to the street to need directory signage. She said up to this point, the residents have been cooperative with the builder; however, she said they have come to the point where they want to uphold what they have asked for on signage. She concluded by saying that she didn't think the signs were going to benefit the businesses but it they would definitely be a detriment to the surrounding residents and neighborhood.

MOTION: To defer indefinitely.

DUNLAP moved, **GISICK** seconded the motion.

SUBSTITUTE MOTION: To deny application.

ALDRICH moved, **BISHOP** seconded the motion, and it carried (9-3). **DUNLAP, GISICK, MARNELL** – Nay.

The Metropolitan Area Planning Department informally adjourned at 5:00 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially

approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)